

**Dignity Beyond the Human:
A Deontic Account of the Moral
Status of Animals**

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Table of Contents

Abstract.....	5
Declaration	6
Copyright Statement	7
Acknowledgements	8
Introduction.....	11
The Concept of Dignity.....	14
Chapter Outline	17
Chapter 1 “Human” Dignity Beyond the Human.....	25
1.1 Introduction	25
1.2 Naturalistic Accounts.....	28
1.3 The Defects in Naturalistic Accounts of Human Dignity.....	32
1.4 Conventionalist Accounts	36
1.5 The Defects in Conventionalist Accounts of Human Dignity	38
1.6 Conclusion: Beyond Human Dignity	43
Chapter 2 Sentience as the Basis of Dignity	46
2.1 Introduction	46
2.2 The Question of Scope.....	47
2.3 The Interests Condition.....	52
2.4 The Consciousness Condition.....	55

2.5	The Capacity to Value.....	60
2.6	The Intrinsic Value of The Capacity to Value.....	67
2.7	From Intrinsic Value to Dignity.....	72
2.8	Conclusion.....	76
Chapter 3 Monism about the Basis of Dignity		78
3.1	Introduction	78
3.2	The Challenge to Monism.....	80
3.3	Extrinsic Value.....	87
3.4	The Value of Rational Agency.....	93
3.5	The Kantian Regress Argument.....	97
3.6	The Monistic Gauntlet.....	100
3.7	Conclusion.....	111
Chapter 4 Sentient Dignity Without Hierarchy		113
4.1	Introduction	113
4.2	The Argument Against Unitarianism.....	115
4.3	An Incomplete Account of Deontic Unitarianism.....	119
4.4	All Dignity-Bearers have the Same Kind of Value.....	123
4.5	All Dignity-Bearers Have the Same Fundamental Right	127
4.6	All Dignity-Bearers Have Equally Stringent Rights.....	132
4.7	Implications.....	135
4.8	Conclusion.....	142

Chapter 5 On the Bright Side of Rights	143
5.1 Introduction	143
5.2 The Conditions for Claimability	145
5.3 The Dark Side of Rights	151
5.4 On the Bright Side of Claimability	155
5.5 Implications	165
5.6 Conclusion	169
Conclusion	171
References	177

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Abstract

Dignity is traditionally thought to apply to almost all and almost only humans. However, I argue that an account of a distinctly “human” dignity cannot achieve a coherent and non-arbitrary justification – either it must *exclude* some humans or *include* some nonhumans. This conclusion is not as worrying as might be first thought. Rather than attempting to vindicate “human” dignity, dignity should extend *beyond* the human, to include a range of nonhuman animals. Not only can we develop a widely inclusive account of dignity by pursuing this route, but we can still defend the three core principles that lie at the heart of contemporary thinking about dignity: that bearers of dignity possess dignity to an equal degree, in virtue of possessing the same intrinsic worth, and that this generates direct and claimable rights.

I thus develop an account of dignity that includes nonhuman animals. I argue that the *capacity to value* most plausibly grounds dignity. This capacity arises from valenced sentience: a being *values* insofar as they have experiences that matter *to* them. I then characterise what follows from this. First, I contend that it is *only* the capacity to value grounds dignity because this produces the most plausible, simplest, and most explanatorily powerful account of dignity. We ought to reject pluralist accounts which assert a sharp distinction between bearers and non-bearers of rational agency, and biocentric accounts which include non-sentient organic entities. Second, I argue this property grounds an account of dignity that is non-hierarchical. There are no degrees of dignity. Instead, all possessors of the capacity to value have the same kind of intrinsic value, and the same equal fundamental right: to consideration of their interest in leading a life of value. Finally, I argue that since the fundamental right is to *consideration*, moral agents have claimable duties to engage in a deliberative procedure with actionable requirements. Specific rights are instantiations of this general procedure.

Certain revisionist conclusions follow on my view – for instance, that nonhumans should be given greater weight and inclusion in a far wider range of cases – but my account is sensitive to the range of different things different beings value, so it does not generate counterintuitive implications. I conclude that dignity extends *beyond the human*.

Declaration

No portion of the work referred to in the thesis has been submitted in support of an application for another degree or qualification of this or any other university or other institute of learning.

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I grew up surrounded by a small pack of border collies and it was Padney, our first dog, who taught me that we are not too different from the other animals. In many ways, the credit for the basic ideas I present here goes to him: thank you for showing me what it means for a nonhuman to value.

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Introduction

Humans and other animals possess a diverse number of valuable capacities – but I argue that it is our *capacity to value* in the first place which is of fundamental moral importance. Valuing has a central place in all our lives. To raise just a few examples, we value getting enough to eat, having a safe and hospitable environment, and our relationships with those around us. I argue that all of these things take on moral importance *through* our capacity to value. The main claim of my thesis is that it is the capacity to value which grounds a being’s “dignity” – their status as possessing rights and intrinsic value. As such, I argue that dignity is possessed by a range of non-human animals that can value, not just by humans, as is often thought. On the view I develop, non-human animals have an equal right to consideration *alongside* and on a par *with* humans, rather than as separate from humans.

The idea that humans are not the only animals that possess dignity is a powerful way to understand the moral relevance of our similarities as well as our differences with other animals. In fact, this thought picks up on a central idea at the heart of contemporary thinking about “human” dignity and “human” rights: that what is morally important about each of us is what we have in common with others. On the standard view of human rights, the differences between us are unimportant to the fundamental rights that we possess. Race, sexuality, gender, class, age, and citizenship are all thought to be morally arbitrary features at a fundamental level. However, on this standard view, differences are also used to divide us from our fellow animals: the fact of being human or possessing some central human capacity (such as rationality) is thought to delimit the scope of “human” rights. Human rights and dignity embody an equal status and inherent worth that is said to require certain actions as a minimum of respectful treatment (Gilbert 2018). However, why should they apply to humans alone? Many human rights of the most urgent relevance target the things that humans and a wide range of nonhuman animals *both* value, such as food, shelter, health, and opportunities to form social bonds. In light of this, being human appears to be just one among a vast number of differences – it is not what truly matters in a fundamental moral sense.

Recent literature has accepted that animals deserve at least some kind of moral consideration (Garner 2004). However, this is often thought of as separate in both kind and degree from the moral norms associated with humans. This has given rise to hybrid theories which either assign animals a distinct kind of consideration, for instance, consequentialist concern, or argue that if animals have rights they are “animal” rights, while humans have “human” rights.¹ Ordinarily, these divisions are made on the basis of properties that can distinguish (most) humans from (most) nonhumans and thus act as the basis for distinct kinds of moral norms. The result is that we can go on talking about a distinctly human dignity and human rights safe in the knowledge that consideration for nonhuman animals is addressed by another domain of morality.

However, given the many things that we humans value that nonhumans also value, as well as the many characteristics that we share with nonhumans, this bifurcation between the dignity of humans and other animals can appear odd and concerning. At best, it introduces a complexity that might do more to obfuscate than to clarify the moral obligations we have to one another and to our fellow animals. In other words, understanding the moral status of humans and nonhumans to be distinct raises complicated questions about how and why they are distinct, what role our capacities play as the basis for discrete moral norms, and how potential conflicts should be resolved. Furthermore, many humans lack developed cognitive capacities that are often thought to generate a non-arbitrary human-animal divide, such as children or those with profound cognitive illnesses or disabilities, so it can become challenging on a hybrid view to work out how we should address these so called “marginal” cases (Dombrowski 1997). To be sure, these questions might be answered – and attempts have certainly been made that I will explore – but their morally fundamental nature makes it worthwhile to investigate the plausible alternative: that we *share* a dignity with other animals.

What’s more, understanding the moral status of humans and other animals to differ in kind can also appear to be deeply immoral, if and because it unjustifiably claims that nonhumans have an inferior and radically different kind of moral status to humans. Consider the history of political and moral philosophy: human beings have a central place in considerations of what we owe to one another, the kind of societies that we should

¹ For a discussion of this view see (Killoren and Streiffer 2022; Sebo 2023; Woollard 2023).

build, and our evaluations of what policy programs to adopt. Nonhuman animals might receive some inclusion in these deliberations, but if they are included at all, they are often given second-order consideration – rather than having inclusion as one of the *primary* subjects of moral consideration. At the very least, the question of who to include and who to exclude in our deliberations requires justification. For instance, if we were to only include blue-eyed humans in these kinds of decision-making procedures it would be deeply immoral, even if humans with other eye colours received another kind of inclusion, further down the line. A similar concern therefore also arises for nonhuman animals: if they are to be excluded as primary subjects of moral consideration, then that exclusion should be thoroughly justified.

Rather than critiquing the full range of possible arguments that have and could be provided for making a meaningful moral distinction between humans and other animals, I adopt an alternative more positive strategy: to explore and defend the view that humans and other animals have the same kind of *equal* dignity. I claim that this view does a better job of providing an account of dignity than orthodox theories have so far, and in doing so I defend my view against the claim that there should be several different kinds or degrees of moral status.

The view I will develop argues that the capacity to value grounds our fundamental moral obligations to one another and to our fellow creatures. The capacity to value is akin to sentience. It identifies a being's ability to possess interests which it matters *to* the being that they achieve. However, I interpret the moral relevance of this capacity slightly differently to many other Sentientists: the capacity to value seeks to capture the *full range* of sentient experiences beings can undergo, not simply pleasure and pain, and it also seeks to explain the *depth* of importance that our experiences have to us, no matter our species. On my view, the capacity to value makes sense of the value and importance of the various other capacities that different animals possess. I will argue that this capacity forms the basis for a being's dignity, whether they are human or nonhuman.

Nonetheless, doing away with the sharp distinction between humans and animals raises a number of concerns that must be addressed, in comparison with orthodox views of dignity and moral status. To begin, how should we think about the inherent value of humans and other animals? Many of us tend to think that humans have *more* value than

non-humans. Based on this standard view about justice, it is our unique human capacities which lead us or our lives to have more value than nonhuman lives do: a human can appreciate a work of art such as the Mona Lisa, a nonhuman animal cannot. Do our unique capacities mean that we have more value than other animals? If not, then why should our value instead be based solely on the capacity to value? And if it is, then should we think of ourselves as possessing the *same* value as our fellow creatures? What are the moral implications of this? What place does the value of “human” capacities such as rational agency subsequently have in a theory of dignity based on the capacity to value?

Moreover, there are questions that concern the kinds of rights and duties deriving from dignity that my account will generate. As I have said, moral and political philosophers generally rely on a human-animal divide to (implicitly or explicitly) justify their focus on humans as the primary subjects of their theories. We use a human-animal divide to justify why public policies should favour humans, why we ought to give priority to humans in conflict cases and why humans ought to be treated in unique ways. However, if the mere fact that an animal is a human has little, if any, moral relevance, then how should we think about these issues? It might seem that radically counterintuitive implications follow – such as favouring starving pigeons over starving children or flipping a coin to decide whether to save a human or a dog. Does the view that humans and nonhumans have an equal dignity actually result in these conclusions though? And if not, how should conflicts therefore be resolved, and resources be distributed? What revisionary implications follow? My thesis will explore these sets of questions and offer an account that hopes to plausibly address them – an account of dignity *beyond* the human.

The Concept of Dignity

Before I outline how my argument will proceed, it will be useful to clarify the concept of dignity. At a conceptual level, dignity is simply the deontic moral status that rights-bearers possess (Debes 2009, 60; Killmister 2020; Nussbaum 2005; Waldron 2012a).² What does this mean exactly? If an entity has moral status generally, then they can be wronged in some way, whether directly or indirectly. However, to have *deontic* moral status is to have *directly claimable* rights, in particular. If a being with dignity is wronged, it is because a

² Dignity has many ‘contours’ (Killmister 2020) that can apply regardless of claims I make.

particular *duty-bearer* has violated the dignity-bearer's right(s). Rights-claims identify *what we owe to one another*³ in a basic, deontic sense: they are the enforceable treatments that we can justifiably claim from others. Some hold that all moral statuses are deontic – such that all those who can be wronged *in any way* have rights correlative with direct duties. Others claim that a deontic moral status is just one kind of moral status – such that some entities might have a moral status, but not the kind that grounds rights-holding. In the first interpretation, dignity is moral status (because all moral statuses are deontic) and in the second dignity is a kind of moral status (a deontic one).⁴ Note that in some places throughout this thesis I will use the term “moral status” when referring to the broader senses of moral status, rather than just those concerning dignity.

Two preliminary questions remain that must be addressed to get a good grip on the concept of dignity. First, why focus on “dignity” at all (as opposed to “rights status”, or a similar term)?⁵ For starters, dignity is relevant and necessary because of its rhetorical and practical value. Using the word dignity adds ‘rhetorical flourish’ (DeGrazia 1996, 67) to announcements or reminders of the deontic moral status of individuals. The term has significance and weight in public discourse. It is also widely used in International Human Rights Law, so continuing to use it is a good way of meeting what Sangiovanni (2017, 179) calls the ‘fidelity desideratum’. Dignity is an ‘interstitial’ concept that helps to bridge cultural differences (Riley 2019), hence by conforming to contemporary usage, we increase the relevance of philosophical understandings of moral status.

On top of this, the concept of dignity also requires interpretation to carry significance in the debate over its meaning and scope. While at a conceptual level dignity is deontic moral status, its interpretation makes the concept more transparent by illustrating a conception of *what it means* to be a rightsholder. In human rights literature, to possess dignity is to possess an *intrinsic worth* grounding an *equal* deontic moral status, and certain minimum protections as a result (Christiano 2008b; Gewirth 1992; Gilibert 2018, 2023a; Kant 1997; Tasioulas 2013). While these claims are not necessary for the *concept* of dignity (Debes

³ This is the domain of morality identified by Scanlon (1998).

⁴ Thus, a being might have moral status without dignity, but they cannot have dignity without having moral status.

⁵ The worry here is that conceptually equating dignity with deontic moral status makes the term redundant, because it fails to add anything complex or interesting (Bagaric and Allan 2006; C. R. Beitz 2013; Zuolo 2016a).

2009), they are for the *conception* of dignity used in human rights discourse. I will explain these claims more closely below. Since my intention is to investigate whether or not a single conception of dignity can apply to both humans and animals, it will be necessary to provide a conception of dignity that either stays consistent with this contemporary conception, or otherwise justifies the ways in which it diverges from it.

Second, why should we *revise* dignity in the way that I will suggest, as opposed to starting over with a new concept entirely? There are three main reasons. First, as I have said above, doing so will help us to meet the fidelity desideratum. Modern practice matters because it helps to justify our beliefs and by doing so increases the plausibility that our beliefs are the correct ones to hold. Deriving principles from grounds alone can be fallible. We ensure against this by coherently relying on our own considered convictions as well as those of others (Rawls 1971, 508–9). Hence, while my theory is in an important sense ideal, since it focuses on core principles of morality, practices and beliefs that already exist provide us with ‘evidence’ that a particular principle is true even if it does not ‘ground that principle in the relevant sense’ (Sangiovanni 2016, 13). Note that I will elaborate further on the method I shall adopt – that of ‘reflective equilibrium’ (Rawls 1971, 48–51) – in chapter 2 (section 2.2) when I provide the basis for my positive account of dignity. Second, and in a similar vein, revising dignity rather than completely remaking dignity will allow us to draw on the *instrumental* value of dignity’s political, symbolic, and contextual usage. The aim here is to best realise the fundamental principles and values. Articulating those principles *in terms of* a practice that is already in place means that we can ‘serve the principles and values to the greatest possible extent’ even as we approach the practice with ‘a critical eye’ and therefore a view to transforming some of the ‘rules and norms governing the practice’ (Sangiovanni 2016, 15). To put this differently, deploying the concepts of dignity and human rights will allow us to draw on existing power structures, even as we seek to develop a conception of dignity that extends *beyond* the human, so as to include nonhuman animals. Third, as Colin Bird (2021, chap. 1) has outlined, dignity has a central place in the tradition of *political liberalism* that I am seeking to stay consistent with. This is because, when understood as a *deontic* moral status, it becomes clear that philosophers such as John Rawls (1971, 2005) rely on many of the core principles that lie behind a conception of what that status is (grounding an inherent worth). Political liberalism has a global and universal perspective on the scope and importance of moral

and political principles, consistent with respect for individual and cultural difference. It is therefore focused on cosmopolitan norms, rather than more local or relational normative principles. According to this tradition, each individual adopts their own ‘comprehensive doctrine’ for how they in particular should govern and live their life, such as having a particular religion (Christian, Hindu, Muslim, etc), or being a part of a particular association with a unique lifestyle and conception of the good (Rawls 2005, 13). However, each of these doctrines should be consistent with one another and work towards an ‘overlapping consensus’ on how we ought to treat one another (Rawls 2005, chap. 4). No doctrine should have superiority over another. Instead, we ought to be impartial between different doctrines. In light of this, human dignity and human rights are *narrow* in scope (they focus only on certain minimal standards of right and wrong action) and thin in their articulation (they are secular and respect the freedom of each to live their life how they wish within constraints) (Nussbaum 2023, 93). As such, dignity and human rights provide a ‘framework for global justice seeking’ (Goodale 2022, 7). Adopting the same approach, I extend that framework to include nonhuman animals at its very core.

Chapter Outline

By developing an account of dignity that is possessed by both humans and nonhumans, my thesis makes four novel contributions:

- (i) It explains why we should give up on the idea of a distinctly “human” dignity once and for all, and it provides desiderata for a plausible account of dignity.
- (ii) It develops a new conception of the basis for dignity in a single property, the capacity to value. This conception includes nonhuman animals. It defends this account by arguing that pluralistic views are less plausible since monism about dignity can do all the explanatory work with just as, if not better, implications for our understanding of dignity.
- (iii) It argues that dignity-bearers possess a single and equal fundamental right, the right to consideration of their interest in leading a life of value. Possession of a single equal fundamental right vindicates the idea that bearers of dignity are one another’s moral equals, even if those bearers are both human and nonhuman. It

does this while avoiding the problematic conclusions often attributed to such views.

- (iv) Finally, it also ensures that rights are claimable against duty-bearers, so that they have distinct normative implications: the right to consideration can be enforced, and in case of its violation, resentment is justified, and restitution can be sought. This right can be used to comprehensively specify further presumptive rights possessed by dignity-bearers as guidelines for minimum moral treatment.

I start in Chapter One with the question of why dignity should extend beyond the human in the first place. To answer this question, I examine *The Scope Challenge*, often raised against accounts of dignity and moral status more broadly.⁶ This challenge requires us to provide a coherent and non-arbitrary justification for the scope of a moral norm such as dignity. In other words, if dignity and rights are to apply to almost all and only humans, then theorists must provide a plausible justification for why. I argue that this cannot be achieved as long as belief in the Human Scope Thesis (HST) is maintained. The HST holds that dignity should apply to almost all and almost only humans. To demonstrate why we should reject it, I analyse two kinds of approach to justifying (human) dignity – Naturalistic and Conventionalist theories – and I find them both lacking. The Scope Challenge generates two conditions for a non-arbitrary and coherent justification of dignity:

1. The natural grounding condition: dignity should be grounded in an inherent natural property or properties of a being.
2. The ‘intrinsic value condition’:⁷ the natural property/properties grounding dignity must have intrinsic value.

Naturalistic views adopt the right starting point by endorsing the natural grounding condition. That is, they seek to find some property that justifies the possession of dignity, such as agency or human nature. However, these views will fail to fulfil the intrinsic value condition as long as they endorse the HST, since any plausible property of intrinsic value

⁶ Also known as ‘The Argument from Marginal Cases’ (Dombrowski 1997), ‘The Argument from Species Overlap’ (Horta 2014) and ‘The Separation Problem’ (McMahan 2008).

⁷ As Floris (2021) calls it.

that might ground dignity is either only possessed by *some* humans, or it is possessed by humans *and* nonhumans. In contrast, Conventionalist proponents of the HST reject the Natural Grounding and Intrinsic Value Conditions and instead aim to justify dignity by explaining why the HST is necessary to generate coherence with how we understand and deploy dignity in (human rights) practice. The Conventionalist approach fails because if an account of dignity rejects these conditions, it will become ambiguous and lose independent plausibility.

Since these two approaches, or some hybrid version of them, exhaust the justificatory strategies available (Fasel 2019), I conclude that we should give up on a distinctly human dignity once and for all. Herein lies my first contribution to the debate: to include nearly *all* humans in a conception of dignity, the only option is for dignity to extend beyond the *mere* human. In Chapter Two, I provide an account of how it should do that. I argue that there are two jointly necessary and sufficient conditions that amount to a capacity to value and thus constrain whether an entity can be wronged:

- i. The interests condition: The entity must possess teleological interests, that is, ends for which the achievement or obstruction of the end will benefit or harm the entity.
- ii. The consciousness condition: The entity must have the capacity to experience modifiable mental states.

I'll call those beings who possess these properties, and therefore possess dignity, *dignity-bearers*. Sentience views are now the 'moral orthodoxy' in theories of moral status that include nonhuman animals (Garner 2004, 14). My view sits in this tradition but interprets the moral relevance of sentience somewhat differently. That is, I focus on *valenced* sentience, which comprises the *capacity to value* states of affairs, objects, activities, other beings, etc. I use the term value for two reasons. First, it captures the entire capacity for sentience – the full range of mental states sentient beings can experience. Second, it places emphasise on the importance that achieving interests has to the being whose interests they are. However, I also think that this helps us to understand why the capacity to value has intrinsic value *and* why this makes it morally relevant.

Since there is a gap between the claim that dignity has intrinsic value and the claim that this grounds rights (Zylberman 2018), most accounts of dignity fail to explain *both* of these factors. We can bridge this gap with a plausible account of the intrinsic value of the capacity to value and why this grounds dignity. I explain why the capacity to value is intrinsically valuable by arguing that it produces a coherent regressive and relational story: you value some object, and we can explain why the object is valuable by claiming that its value is conditioned on your valuing it (Bukoski 2018; Christiano 2008b; Korsgaard 1983, 2018). This conceptualisation of value is relational because the objects, activities, states of affairs, etc. that we value always bear a connection *with* our capacity *to* value in the first place. Subsequently, I argue that the things which are value relevant in this way are those exact things which are morally relevant, and the same story helps us to see why: generic consistency about our reasons for valuing things requires us to pay normative attention to others valuing things.

The case for valenced sentience as the basis for dignity does not end there though. As we have seen, my second novel contribution to the debate over dignity lies in arguing that it is the capacity to value which grounds dignity in this way. While some philosophers have made a similar claim about moral status (Bernstein 1998; Regan 1983; Singer 1975), few offer a robust defence of it. What's more, many others claim that *more than one* property can be used as the basis for dignity, or moral status more generally (Buchanan 2009; Floris 2021; Gilabert 2023a; Kagan 2019; Warren 1997). In Chapter Three, I therefore defend my account against two related objections: *the Biocentric Challenge*, and *the Pluralist Challenge*.

The Biocentric Challenge claims that my account unfairly excludes non-sentient living organisms such as plants. On the most plausible version of this view, to have dignity it is sufficient that one meets the interests condition (Basl 2012, 2019). This would generate a *biocentric* account of deontic moral status, according to which non-sentient organic entities possess rights (Meyer 2002; Warren 1997). However, this challenge does not succeed. On the one hand, it seems more plausible to think that such entities possess *extrinsic-final* value, and so may be the object of indirect duties, but cannot be the object of direct duties. On the other hand, biocentrism faces its own more formidable objection in the form of a *reductio ad absurdum*: Biocentrists must explain why non-organic artificial entities, like computers and staplers, do not also possess rights if and because it is

plausible to hold that such entities *also* have teleological interests. I conclude that the Biocentric Challenge lacks teeth.

The Pluralist Challenge contends that it is not so much that my account unfairly excludes certain entities, but that it fails to include some sentient beings in the *right* kind of way, specifically, those beings who possess sophisticated cognitive capacities. This charge holds that I fail to draw a morally significant distinction between persons – beings who possess agency as well as or instead of sentience – and nonpersons – beings who only possess sentience. In doing so, Pluralists will contend that my account produces some problematic conclusions: they purport that since it has fewer normative resources available, it does a worse job of explaining our intuitions. It may, for instance, require us to equalise a dog and a human’s chance of rescue. In response, I argue that a Monistic view does not in fact have these shortcomings. On the one hand, we can make sense of the moral salience of differences between different sentient beings *while* endorsing a more parsimonious view according to which there should be only one basis for dignity. On the other hand, problematic conclusions do not arise – and, in fact, Monism has some explanatory gains over pluralism. Given this, pluralistic accounts appear redundant and far less plausible than my monistic alternative, which generates several morally intuitive implications. My account therefore develops the most plausible conception of dignity while also extending *beyond the human*.

However, chapters 2 and 3 only tell us half of the story. The deontic implications that follow on this picture of dignity must be fully addressed, because on the face of it they might appear overly radical and counterintuitive. Doing so allows me to explain why my account retains the second core meaning behind the conception of dignity used in human rights jurisprudence: that of *equal* dignity.

Chapter Four focuses on the core right that results from a being’s possession of dignity. A presumption holds against rights-based views that argue that animals possess dignity, due to their supposedly problematic conclusions: they seem to require us to equalise the moral importance of human and nonhuman lives (Kagan 2019, chap. 3; Vallentyne 2005). Most therefore tend to hold that humans have a superior kind of dignity to nonhumans, because they hold that humans have both a greater number and more important fundamental rights. I argue that this argument only holds if we accept two claims that

explain and justify a hierarchical view in the first place. First, that some beings are more valuable than others in absolute terms. Second, that rights vary in their importance. If we replace these claims with plausible alternatives that respectively hold that value comparisons are always relative to the being whose values they are, and that all rights have equal importance, then we overcome the argument against the single status view (what Kagan calls *unitarianism*), with benefits for how we ought to approach moral conflicts. On the account of dignity I develop, all dignity-bearers have the *same* dignity, because they possess the same equal fundamental right to consideration of their interest in leading a life of value. While revisionary conclusions follow, for instance, that we ought to favour nonhumans interests far more often than moral theories ordinarily endorse, problematic conclusions do not, because humans tend to value a greater range and number of things.

Following this, in Chapter Five I turn to focus on the duties correlative to these rights. If all animals with the capacity to value have rights, then there a wide number of worries about the so-called “dark side” of rights: their *claimability* (O’Neill 2005; Tomalty 2014). Concerns about claimability focus on the role of the agent who bears the duties correlative to the purported right. As a general rule, rights must be claimable to provide distinct normative implications (Collins 2016; O’Neill 2005; Tomalty 2014). I specify and defend a framework for understanding *specific* rights claims that I argue overcomes worries about claimability: the correlative duty of all rights is to enact a deliberative procedure and follow the measures that the results of deliberation dictate that you ought to. To defend this claim, I strengthen and develop Collins (2016) original proposal that *only* socioeconomic rights should be thought of as rights to consideration. First, including a substantive theory of what grounds dignity, makes my account of consideration-rights even more non-discretionary: my account tells us exactly what we should be considering when we engage in the deliberative procedure required of moral agents – the interest in leading a life of value of all dignity-bearers, human and non-human. Second, it helps to characterise what factors should go into the deliberative procedure. The procedure should apply to all dignity-bearers equally and should respect individual dignity-bearer’s intrinsic value. As I argue, these developments of the consideration-rights view make an account of “human” rights all the more compelling, increasing its transparency and extending its explanatory power. I conclude by responding to various objections that might be raised against this view.

What is distinctive about my approach is that it retains three core ideas while extending dignity to nonhumans: that bearers of dignity have intrinsic value, that this generates direct and claimable rights, and that they possess dignity to an equal degree. In what follows, I will be concerned with ensuring my account is consistent with these claims, in order for it to be consistent with thinking on contemporary human rights, even as it revises *to whom* dignity should extend. Before I move on, let me finish the introduction by explaining these three ideas that form the bedrock for my argument.

Start with intrinsic value. To clarify what this means, we must make two distinctions in value (Korsgaard 1983). First, in terms of the location of the value: an entity can either carry their moral value *with them*, or they could derive this value from another entity which does carry its value with it. The former is intrinsic value and the latter extrinsic value. Dignity-possessors are thought to possess intrinsic value because they have value regardless of how others value them, whereas the things that dignity-possessors value, such as ice cream, mobile phones, and clothing, possess extrinsic value. Intrinsic value is often confused with another kind of value which overlaps non-exclusively with the first: whether an entity possesses value as an end in itself, rather than as an instrument towards the achievement of an end.⁸ For instance, if a person's end is physical pleasure, then physical pleasure is said to have final value, while the means to achieving that pleasure, for instance, consuming ice cream, is said to have instrumental value. End-value is often called "intrinsic" value, but it is importantly distinct. While intrinsically valuable things probably also have end-value, extrinsically valuable things might also have an end-value, too (think of great works of art, such as the Mona Lisa, or organic entities such as the Great Barrier Reef) (Korsgaard 1983; Rønnow-Rasmussen 2015; Tenen 2019). These distinctions are important for understanding which beings can have dignity and why, as we will see.

Because having intrinsic value means a being is a location of value, it follows from this first claim that dignity bearers are subjects of directed and claimable rights. This centres the *point* of a dignity-based system of human rights: protecting the features and capacities that give rise to and have relevance for the possession of dignity and thus intrinsic value

⁸ This confusion arguably arises because all things of intrinsic value also have final value (Rabinowicz and Rønnow-Rasmussen 2000)

(I will provide an account of what features these are below) (Gilbert 2023a, 45). The idea here is that dignity provides a bridge between the intrinsic value of our natural features and the relevance that those features have to the way we ought to be treated (Gilbert 2023a, 20). Dignity obliges us to act in particular ways towards bearers of those features.

However, dignity is also thought to capture an *equal* deontic moral status. The principle of moral equality is fairly widely accepted in political and moral philosophy when it comes to *persons* (Arneson 2014; Carter 2011; Christiano 2008a; Kirby 2018; Nielsen 1988; Phillips 2021). On deontic theories, persons are thought to have an equal number and equal stringency of fundamental rights. It is thus claimed that dignity embodies an *equality* between persons both in terms of their status as rights-bearers and in terms of the kind of value that they possess – no dignity-bearer is thought to have *more* intrinsic value than another. On some accounts, the idea of possessing more intrinsic value than anyone else is an anathema to the very idea of intrinsic value (Bradley 2006).

My account will maintain these distinctive ideas, and it therefore retains what is distinctive about human rights, even as it extends beyond the human. As I will argue, the rights of humans and other animals are not *distinct*. Instead, all deontic obligations can be explained using the same concept, the capacity to value. Consequently, nonhuman animals ought to feature more directly in the full range of theories of justice; humans with profound cognitive disabilities have the same dignity as all other humans; and we ought to prioritise animal interests more often than ordinarily thought. If dignity is possessed equally by humans and nonhumans, then nonhuman animals matter morally for the same reason and in the same way that we do: because they have a capacity to value.

“Human” Dignity Beyond the Human

1.1 Introduction

Many approaches to dignity in moral and political philosophy endorse the Human Scope Thesis (HST), according to which almost all and almost only humans have dignity (Griffin 2008; Killmister 2020; Liao 2010; Tasioulas 2013; Waldron 2017). In this chapter, I argue justifications for the HST are doomed to fail. Dignity can and should apply *beyond* the human.

Proponents of the HST must defend this thesis against the Scope Challenge.⁹ This challenge requires us to provide a coherent and non-arbitrary justification for *who* possesses dignity. While the Scope Challenge is not new, the broader force of it has not been explicitly recognised.¹⁰ What’s more, belief in the HST persists and has generated several recent responses. These are of two kinds (Fasel 2019). The first are Naturalistic theories, which seek to ground dignity in the natural properties of a being. The second are Conventionalist theories,¹¹ which instead attempt to justify the HST by arguing it is necessary to generate a coherent human rights practice. On both approaches the HST is normally held with a degree of indeterminacy – the core claim is that dignity is possessed by almost all humans and almost only humans.¹²

⁹ Also known as ‘The Argument from Marginal Cases’ (Dombrowski 1997), ‘The Argument from Species Overlap’ (Horta 2014) and ‘The Separation Problem’ (McMahan 2008).

¹⁰ As well as those listed in the previous footnote, see (Jaworska and Tannenbaum 2014; Regan 1983; Singer 1975)

¹¹ Fasel (2019) refers to Conventionalist theories as “Dignitarian” theories, however I think the former is more appropriate, since the latter reasonably captures *any* theory that relies on a conception of dignity, including a Naturalistic one like my own.

¹² A second claim tends to implicitly underlie the HST: that all humans are one another’s *equals* because they have the *same* moral status (dignity). This second claim sometimes only implicitly follows on from the first, but it identifies a *general* area of disagreement between Conventionalist and Naturalistic approaches. As Fasel (2019, 541) notes, Naturalistic and Conventionalist views disagree about how we should grant moral consideration: Naturalistic accounts ordinarily argue consideration should be ‘differential’ while Conventionalists argue it should be ‘equal’ (Fasel 2019, 541). This being so at a general level, when it comes to *humans*, proponents tend to maintain that moral status ought to apply equally. As we will see, disagreement is about how to *justify* that

I argue that proponents of the HST cannot overcome the Scope Challenge because they cannot provide a coherent and nonarbitrary justification for the HST. A distinctly “human” dignity must therefore be abandoned. This conclusion matters for two reasons. First, it means that many contemporary accounts of *human* dignity fail to correctly explain the status of rights-holding. Second, it means that dignity should extend *beyond the human*. It follows on most accounts that other animals ought to be more widely accepted as bearers of “human” rights.

To reach these conclusions, I first focus on *Naturalistic* attempts to justify the HST (sections 1.2 and 1.3). To be successful in overcoming the Scope Challenge, a Naturalistic theory of dignity aims to ground dignity in a non-arbitrary natural property. Naturalistic approaches therefore correctly accept what I will call:

1. The natural grounding condition: Dignity should be grounded in an inherent natural property or properties of a being.

Nonetheless, I argue that Naturalistic accounts can only overcome the Scope Challenge if they *also* accept a second condition that explains why the natural property that they identify is *non-arbitrary*:

2. The ‘intrinsic value condition’:¹³ the natural property/properties grounding dignity must have intrinsic value.

However, as *long as* they hold that the HST should *not* be abandoned, Naturalistic accounts are unable to meet this second condition. To demonstrate this, I focus on a strong example which has not received enough critical attention: Liao’s (2010, 2012, 2015) Genetic Basis Account.¹⁴ I argue that Liao’s account fails to identify an intrinsically valuable property, and so it cannot non-arbitrarily justify the HST. This demonstrates (a fortiori) why it is difficult for a Naturalistic theory to justify the HST. However, it leaves

equality. As little hangs on this for my argument, I put this matter to one side in this chapter and return to it in chapter 4.

¹³ As Floris (2021) calls it.

¹⁴ As I explain further below, Liao’s account is the strongest example of a Naturalistic account of the HST because (a) it is not based on an arbitrary biological *category* such as membership in the human species and (b) it does not have the same metaphysical baggage as alternative Naturalistic views that seek to justify the HST.

open the possibility, which I explore towards the end of the chapter, that Naturalism can justify a more inclusive view by relying on a natural property which does have intrinsic value.

Second, I shift to analysing *Conventionalist* approaches to justifying the HST (sections 1.4 and 1.5). Conventionalists reject the natural grounding and intrinsic value conditions and focus instead on developing coherence with social conventions. They aim to justify the HST by explaining why this thesis is necessary to generate coherence with how we understand and deploy dignity in (human rights) practice (Killmister 2020; Phillips 2015; Waldron 2017). As before, I examine an account that has not yet received enough critical attention: Killmister's (2020) account. However, I argue the Conventionalist approach fails *because* it does not endorse the natural grounding and intrinsic value conditions. An account cannot dispose of these without losing independent plausibility, and therefore failing to overcome the Scope Challenge. Consequently, this approach cannot salvage the HST and nor, I argue, can a hybrid Naturalistic version of it. Since Naturalism and Conventionalism are engaged in a 'zero-sum' problem which exhausts the justificatory strategies available (Fasel 2019), we can conclude that to overcome the Scope Challenge, accounts of dignity ought to abandon the HST.

I finish by drawing out why this means a plausible account of dignity should extend beyond the human (section 1.6). My arguments imply that an account of dignity can overcome the Scope Challenge if it is plausibly Naturalistic (i.e., it meets both the natural grounding and intrinsic value conditions) but does not seek to justify the HST. To be sure, it might be objected that this could result in an account with a *less* inclusive scope, if dignity is grounded in a property that some humans lack (such as rational agency). Yet I argue that we ought not to pursue this route. Instead, dignity ought to be grounded in an intrinsically valuable property both humans *and* nonhumans possess. I provide an account of animal dignity grounded in a property of intrinsic value – the capacity to value – in subsequent chapters. In this chapter my aim is to show that “human” dignity ought to be put to bed once and for all: even as dignity retains relevance to *all* humans, it must move beyond the *mere* human.

1.2 Naturalistic Accounts

Naturalistic accounts aim to ground dignity in a natural property or properties, P, which are inherent to beings. In other words, they aim to provide dignity with a foundation in natural properties (Fasel 2019, 544).¹⁵ Justifying dignity in this way involves adopting what I call the natural grounding condition. I argue this is one of two conditions restricting how the scope of dignity should be justified – conditions which are generated by the Scope Challenge. Because this condition is accepted on Naturalism, I defend it more fully when critiquing Conventionalism below. Instead, my focus in this section and the next will be with a second condition which tells us what *kind* of natural property dignity should be grounded in order to be non-arbitrary. I will argue that we should endorse the intrinsic value condition, according to which the natural property/properties that ground(s) dignity should be intrinsically valuable.

To explain why, let us start by taking a closer look at the Scope Challenge. The Human Scope Thesis (HST) holds that almost all humans and almost only humans possess dignity. According to the Scope Challenge, this is unjustified because most natural properties inherent to beings that appear to be morally relevant are inconsistent with the HST. This is either because there are a large number of humans that don't possess the identified property or because there are a large number of *nonhuman* animals that do possess it. For instance, suppose we were to take up the view that *rational agency* justifies the possession of dignity. On the face of it, this view seems unable to justify the HST, because not all humans possess rational agency, and some nonhumans do. 'Marginal cases' are often used to demonstrate this point (Dombrowski 1997). These are cases in which two entities A and B are taken to have *differing* moral statuses despite both possessing P, the morally relevant natural property. For instance, at a certain point in their development, infants possess the same degree of reason as chimpanzees. On this rendering, both infants and chimpanzees possess P (reason). Nonetheless, the HST stipulates that infants have dignity and chimpanzees do not. Hence, *if* we want to maintain the HST we must either find another property which does not produce this inconsistency (i.e., one which differentiates A and B), or explain why this inconsistency is warranted.

¹⁵ I am relatively indifferent here about how capacious we should be in our understanding of what counts as a natural property.

Why is this important? It will ultimately determine what kind of treatment we ought to give these beings by determining whether they have rights. For instance, if it is true chimpanzees *do* have dignity, then on standard views it follows that chimpanzees ought to receive similar rights protections as infants do (Andrews et al. 2018).

This generates a Scope Challenge due to our general commitment to theoretical coherence. On Naturalism, coherence might be easily achieved if the grounds of dignity alone determine the scope of dignity: those beings who have dignity are just those with the relevant natural property/ies. As I explain in section 1.6, there are several possibilities here (for instance, sentience, the capacity for basic agency, or the capacity to form social bonds), though I will argue in subsequent chapters that the capacity to value is the most plausible. Yet, most of these properties do not cohere with the HST, because they include nonhumans. This leads Naturalistic proponents of the HST to attempt to identify a property P which really does cohere with the HST. The burden here is not so high that the property should have *no* exceptions, for instance, it might be the case that *some* humans lack this property. Indeed, a general rather than strict understanding of the HST increases rather than decreases the plausibility of a Naturalistic account of human dignity, because Naturalism will try to avoid ‘definitional’ speciesism (Horta 2010, 253): relying on the claim that it is *mere* species membership which explains why humans and no other beings have dignity. This would assume without justification that a *natural/biological* category (alongside a tendency to favour one’s species) has *moral* significance (Jaquet 2022; McMahan 2005; Rachels 1990, chap. 5). The strongest Naturalistic approaches like Liao’s therefore adopt what Liao (2010, 160) calls ‘The Species Neutrality Requirement’: they claim that the possession of dignity must (at least in principle) be possible for members of other species. Indeed, Naturalistic proponents of the HST are often wary of begging the question. The danger is that they place too much importance on epistemically flawed biases in favour of what they already think.¹⁶ Nonetheless, what we already think about things can be a good guide for how to interpret and understand the principles underpinning our beliefs in a form of reflective equilibrium (Rawls 1971, 48–51). Weighing these two considerations together, whether the HST is justified Naturalistically

¹⁶ For instance, the intuition that “the human”, more or less, has a special status appears to be shaped by morally irrelevant factors (Jaquet 2021, 2022).

should depend on a careful balance between finding a nonarbitrary natural property to ground dignity, and *coherence* with a thesis about the scope of dignity (such as the HST).

Yet, this raises the question of what *kind* of natural property is non-arbitrary in the relevant sense. Clearly it cannot be *any* property which simply coheres with the HST; the property has to do some work in justifying the scope of dignity. I argue that to be non-arbitrary the property/ies grounding dignity must be of intrinsic value (Floris 2021).¹⁷ To fulfil this intrinsic value condition, the natural property grounding dignity must therefore be a location and/or source of value.¹⁸ Contrast this with properties of extrinsic value, which derive their value from intrinsic values. For instance, you might think the Mona Lisa attains its value from *our* valuing it, making it extrinsically valuable, but most humans do not – most humans have value regardless of whether or not they are valued *by* others, so they are intrinsically valuable.

Notice that the intrinsic value condition makes sense of a claim often made in the literature that bearers of dignity have inherent, or non-instrumental value.¹⁹ According to Naturalism, a dignity-bearer's intrinsic value *inheres in* the natural property that also grounds their dignity. You are intrinsically valuable *because* there is a feature or features about you that are intrinsically valuable – perhaps your agency, or your sentience for instance.²⁰ Naturalism must make a claim of this sort to provide an explanation for why you are intrinsically valuable and a rock, for example, is not.

Doing so provides Naturalism with independent criteria for distinguishing bearers and non-bearers of dignity. It does so because an argument about the moral relevance of some *natural* fact has to appeal to *value* at some point (Horta 2018). To see this, start by noticing that on Naturalistic theories direct wrongings are explained in terms of the natural features of a being. For instance, if Paul intentionally breaks Barry's arm without good

¹⁷ Various other Naturalistic theorists (whether or not they endorse the HST) seem to be defending something similar to this, for similar reasons that I outline in what follows. See for instance: (Christiano 2008b; Grau 2010; Jaworska and Tannenbaum 2014; McMahan 2005; Tasioulas 2013).

¹⁸ It is important to note that this is distinct from an object's "final" value, as an end in and of itself. Often these two senses are conflated under the term "intrinsic", disqualifying the possibility that something (such as the Mona Lisa) might be of extrinsic-final value (Korsgaard 1983).

¹⁹ For examples see footnote 17.

²⁰ Whatever grounds your sentience/agency need not be intrinsically valuable.

reason this is wrong *because* Barry has certain natural features whose value is undermined or disrespected or obstructed in some way by breaking his arm. So, some claim about the value of the natural features that Barry possesses must be introduced to explain why those features determine how we ought to act towards Barry.

Accepting this, the relevant value grounding dignity must be intrinsic, because dignity-bearers are *originators* of claims against others; they have rights and can therefore be wronged directly. Only intrinsic values can make sense of this status *to the full extent*, because only intrinsic values are the derivative source of other values and can therefore fully explain the value relevance an action has. Other values might feature in the picture – Barry’s arm might be instrumentally valuable to Barry – but the source of those values’ value is the intrinsically valuable property that explains a dignity-bearer’s intrinsic value. So, it is the intrinsically valuable property grounding Barry’s dignity that must *ultimately* explain why it is possible for breaking Barry’s arm to be wrong. Considering two available alternatives (on standard views of axiology) helps illustrate this.²¹ First, properties that do not have any value might ground dignity instead. However, the link between moral relevance and the natural property would then appear mysterious; a Naturalistic explanation of wronging becomes explanatorily empty. Second, the relevant value could be extrinsic – a property that derives its value from an intrinsic value. However, if this were so then wrongings would have no relevance *to* those wronged. If a being were valuable in this way, it might have *a* moral status, but it would be odd to think that it was the status of dignity, because we would not be able to wrong *them* directly. Rather, we would indirectly wrong whatever actually does have intrinsic value (e.g., pleasure). As a result, intrinsically valuable properties seem the most plausible candidates for determining the possession of dignity on Naturalistic accounts.

To salvage the HST, Naturalism must therefore play a game of search and rescue: to find a natural property that *coherently* matches the HST while also meeting the Intrinsic Value Condition. One of the strongest Naturalistic accounts which has attempted to overcome the Scope Challenge is that of Liao (2010, 2015). In the next section, I summarise Liao’s account, and its strengths, before explaining why even his account fails. That failure can, *a fortiori*, be generalised to other Naturalistic accounts of human dignity because it

²¹ I reject a third alternative in section 1.3.

demonstrates why it will be so difficult to ground dignity in a property of intrinsic value *as long as* an account of dignity seeks to defend the HST.

1.3 The Defects in Naturalistic Accounts of Human Dignity

Liao's proposal is that 'all human beings' have dignity²² 'because they have the *genetic basis for moral agency*' (Liao 2010, 164). As Liao explains it, this genetic basis is 'the set of physical codes that generate moral agency', located in the genome for humans (Liao 2010, 164).²³ This account is strong for several reasons. First, the genetic codes of a being change very little after birth, so it is a stable basis for dignity. Second, the genetic basis could be 'multiply realizable' (Liao 2010, 165). In some environment one set of codes could give rise to the morally relevant characteristic and in other environments, it could plausibly be an entirely different set. Third, Liao contends that this account extends to nearly all humans specifically because there is a difference between 'defects of the genes that make up an attribute and genetic defects that undermine the development of an attribute' (Liao 2010, 166). This might therefore exclude anencephalic infants at the very margins of the account, but most genetic defects are of the latter variety (the genes are present, something just impedes their development), so it is likely most humans possess the genetic basis (Liao 2010, 167). As I mentioned, this only goes to strengthen the account though, because it allows it to meet the species neutrality requirement. Finally, this account might seem to be initially appealing because it does cohere with the common-sense intuition that almost *all* and almost *only* humans have dignity (Liao 2010, 168).

Certainly, Liao's account has strong potential to justify the HST, especially compared with many other Naturalistic accounts, because it shifts the burden from actual possession of a capacity (moral agency) onto the necessary requirements for that capacity (the genetic basis). For one thing, Liao's account does not rely on a dubious notion of human nature (Scanlon 1998; Tasioulas 2013) or unique human welfare (Waldron 2017, chap. 6).²⁴ Nor does it rely on modal claims about whether particular humans with profound cognitive disabilities *could have been* like fully functioning adult humans in an alternative possible

²² Liao uses the term "moral status", but his usage is equivalent with my understanding of dignity as deontic moral status.

²³ I will not digress on what constitutes the genetic basis; Liao (2012) has defended the genetic basis account against challenges of this kind already.

²⁴ See McMahan (2008) for a critique of these views.

world (Kagan 2016, 16).²⁵ Liao's account is more plausible than these alternatives because it does not have the same metaphysical baggage. That is, Liao is not claiming that the potential possession of a particular property such as agency is relevant, without specifying why or in what the potentiality rests. Nor is he claiming humans have an essential nature. Instead, to claim that some individual has dignity Liao simply needs empirical grounds to claim that they have the genetic basis for moral agency. The genetic basis account therefore does better at grounding the HST than alternative Naturalistic views.

Nonetheless, to see whether Liao's account meets the intrinsic value condition, we need to determine whether the genetic basis for moral agency has intrinsic value. Liao (2010) says little about this. Nonetheless the intrinsic value of a particular property is most often justified according to an intuitive sense we have about the value of that property, and whether it is valuable independently of whether we personally value it, alongside considerations about the overall structure of value. So, we should imagine what it would be like if the genetic material did have intrinsic value. If this were so, then the genetic material *itself* would be valuable, independently of other values. However, it seems fairly unintuitive for genetic material to possess this kind of value. Genetic material often seems an 'excellent example' of something that lacks intrinsic value, or end value whatsoever (Grau 2010, 394) – indeed, it may seem concerning to think that what is intrinsically valuable about you is specific genes. Genes are something which simply cause our bodies to constitute themselves in the ways we find to be valuable. Instead, what normally explains the value of genetic material is what it *gives rise* to (in this case, moral agency). So, on first impressions, genetic material does not therefore seem to be doing the necessary work demanded of a morally relevant feature for determining the scope of dignity.

To get greater purchase on this, we can consider the alternatives alongside the place of the genetic basis in the overall structure of value. That is, if the Genetic Basis does not have intrinsic value, its value is likely going to be *extrinsic* if it has any value at all (Korsgaard, 1983). If the genetic material were only extrinsically valuable it would derive its value from somewhere else, such as agency. So, we would only really value it because we value whatever it derives its value from. Outside of considerations of dignity's grounds, it makes more sense to think about genetic material in this way. Genetic material

²⁵ For a discussion, see DeGrazia's (2016) and McMahan's (2016) critiques of Kagan (2016)

may be valuable, and importantly so, but it is not the *non-derivative source* of the value of dignity-possessing beings. It seems more justified to place our emphasis on what the genetic basis is deriving its value from. In this case, that which actually does ground dignity (whatever that may be).

But that may be too quick. We may want to consider our options further. One possibility is that we should weaken what it means to fulfil the intrinsic value condition. Liao (2012, 272–74; emphasis in original) seems to suggest something of this sort when he claims that the genetic basis could still be morally important even if it has only instrumental value. A weakened value condition might therefore state that the morally relevant property should simply have *some* value. To consider this idea, let me focus on the most plausible option available:²⁶ to say that the genetic basis has constitutive value. Constitutive values amount to a broader intrinsically valuable whole, so they still have good prospects for explaining dignity-possessors' intrinsic value and making sense of their rights-holding status. This is because constitutive values amount to an intrinsically valuable whole, as a necessary condition for that whole. Moreover, if the genetic basis for moral agency has constitutive value, this makes the most sense of Liao's (2010, 178) concern that it should be 'integrated' into the genome of a person. Integrating the genetic basis into the genome matches it up with whatever is needed for it to amount to a broader intrinsically valuable whole: the value of you, as a dignity-possessor.

This response does not work because Naturalism loses its plausibility as *a foundation for dignity* if the intrinsic value condition is weakened. Grounding dignity in a constitutively valuable property might result in a scope cohering with the HST, but it will then seem that the property doing the grounding cannot fully explain all the wrongs that the status of dignity aims to explain. To do this explanatory work in a non-circular way, we saw above in section 1.2 that natural properties must be non-arbitrary by having intrinsic value. But if the genetic basis is only valuable constitutively, then it is not value relevant in the right sense, precisely because it is not intrinsically valuable. Unless it is destroyed, the genetic basis for agency's constitutive value is rarely something we ought to act towards in particular ways. To be sure, you might wrong a bearer of the genetic basis for

²⁶ The objections I raise to this below apply with even greater force against an alternative proposal: that the property grounding dignity could merely have an instrumental value.

agency by murdering them, or inhibiting the development of their agency, but it is not clear the genetic basis would be morally relevant in many other ways. If you lock someone in a room, you might not act in the right way towards *their interests* or *their agency*, but you are not responding incorrectly to the fact that they have the genetic basis for agency. If the genetic basis did have constitutive value, then it would not therefore vindicate the status of dignity because it would not explain the full range of wrongs that status is supposed to explain. So, either a property of actual intrinsic value, such as agency or sentience, is doing extra work behind the scenes (in which case, the question is why that property is not determining the scope of dignity), or this solution seems to be in danger of divorcing moral relevance from the value relevance of natural properties and thus it will fail to do what a Naturalistic account of dignity aims to do: provide ‘normative principles with a solid foundation’ (Fasel 2019, 544).

You might think that there is something to this latter route though: maybe Liao should reject the intrinsic value condition entirely. There are two problems with this for Naturalism. The first is it would not be clear what the intrinsic value of dignity therefore *inheres in* – what the foundation of it is. As I have said, this explanation is exactly what a Naturalistic account aims at providing. For instance, if dignity is grounded in the intrinsic value of sentience, then dignity’s intrinsic value inheres in sentience. To be clear, this does not mean a Naturalistic account must claim the supervenience base of the natural property grounding dignity must have (intrinsic) value. It simply means that the natural property grounding dignity must have intrinsic value (because that intrinsic value *is* the intrinsic value of dignity-possessors). The second problem, as I noted in the last section, is that grounding dignity in a property without any value is explanatorily empty. The genetic basis for moral agency is only one among a vast number of potential supervenience bases for dignity – and so a proponent of the genetic account must tell us why *other* potential bases (such as having a brain, or being alive) are not relevant, and therefore why those other bases do not justify the scope of dignity (as well, or instead). It seems unlikely anyone will be able to explain this without either referring to the intrinsic value of a natural property (and so raising the same question above), or to the doubtful intuition that they are trying to justify – that the HST should be maintained.²⁷ As we will

²⁷ Doubtful because it has been debunked (Jaquet 2021, 2022).

see in the next sections, this generates the kind of circularity that would shift us towards a hybrid Naturalistic-Conventionalist account. In section 1.5 I will briefly consider this possibility and reject it on the basis that it takes on Conventionalism's associated problems *as well as* Naturalism's.

Given this, we can conclude that the genetic account fails. Liao's account seems strong because it improves on other Naturalistic views of the HST. Yet, its failure demonstrates why Naturalistic accounts will struggle to justify the HST: *no* natural properties that cohere with the HST seem to have intrinsic value. To overcome the Scope Challenge, a justification of the HST *must* be coherently grounded in natural properties of intrinsic value, but as long as proponents of dignity endorse the HST this is an exceptionally tall order.

1.4 Conventionalist Accounts

Rather than accepting the natural grounding condition as their starting point, a staunch proponent of the HST might adopt a Conventionalist strategy of justification. Conventionalism eschews natural properties entirely. The guiding motivation behind this is that grounding dignity in natural properties might (as we have seen) worryingly exclude many humans, such as children or the profoundly cognitively disabled (Killmister 2020; Phillips 2015). To avoid this, Conventionalism aims to justify the HST according to 'coherence and integration' (Dworkin 2011, 131) with a particular body of thought, community, and social practice: *human rights law*, and the global norms associated with human rights more widely (Riley 2019). After briefly introducing this approach, I argue that it too is doomed to fail in justifying the HST – as are hybrid Naturalistic versions of it.

On the Conventionalist view, dignity is a status *conferred* on members of the community of 'Humanity' (Killmister 2020, chap. 5) and human rights are therefore claims for 'justificatory standing as a full member' (Forst 2013, 733). This 'internalist' approach (Fasel 2019, 543) attempts to *interpret* and *shape* the socially constructed facts about how dignity is understood within human rights discourse.²⁸ Note that the character of this idea

²⁸ While there is not an exact *unified* understanding of dignity across legal jurisdictions (McCrudden 2008), the HST is one common factor.

of dignity coheres with the concept I outlined in the introduction. Either the “rank”, or ‘noble bearing’ (Waldron 2012a),²⁹ of having deontic moral status is extended to humans (without any consideration of non-humans), or many other beings are taken to also have a moral status while a separate, and presumably higher, “rank” of dignity is extended to humans alone.

This approach is not purely phenomenological: the goal is not simply to capture the social senses of the use of dignity. Instead, Conventionalists aim to justify why, despite the inconsistencies the Scope Challenge raises, the HST is a *coherent* thesis to hold: because those inconsistencies only arise *if* we endorse the natural grounding and intrinsic value conditions in the first place. The aim here is to justify and protect certain secular norms surrounding the minimum treatment of *humans* (Árnason 2021; Killmister 2020; Phillips 2015; Waldron 2012a, 251), while simultaneously refraining from engaging in any ‘problematic references to ‘nature’ (Pollman 2014, 128). Rather than rights deriving *from* dignity as in the Naturalistic Approach, all humans have dignity *because* we already take them to have ‘rights that accrue to humans as such’ (Riley 2019, 445). In order to protect ‘the most vulnerable people’ (Dupré 2013, 117) under threat of being *dehumanised* (treated such that they are inferior to other humans), Conventionalists contend that we should assert a sharp distinction between humans and other animals (Killmister 2020; Waldron 2012a). The worry here may be that including nonhumans will endanger the most vulnerable humans.³⁰ A sharp distinction purportedly protects against this. There is an intentional circularity here, leading to an ‘immunity to external criticism’ (Fasel 2019, 546). Any argument which attacks Conventionalism “from the outside” is dismissed on the grounds that it undermines the very aim of Conventionalism: defending the human rights of all humans.

Despite the critique I advance in the next section, there is much in Conventionalism that should be maintained. As Elizabeth Anderson (2005, 285–86) has noted, while *some* moral obligations can be directly determined from the properties grounding our dignity, not all of them can. The plausibility of the conception of dignity we arrive at is relative to the paradigm of contemporary society (Sangiovanni 2016). As Killmister (2020, 14) puts it,

²⁹ See also (Killmister 2020, 9–11; Schroeder 2008; Waldron 2012b, 212).

³⁰ For a summary of this kind of concern, see (Fasel and Butler 2023, 107–9)

dignity should ‘accommodate the core uses to which the concept is put in everyday discourse’. The rights which are associated with dignity should not be left to a derivative chain of grounds or explanations alone, because wrongs are necessarily committed *by* a wrongdoer *in* a particular context (Sangiovanni 2016, 6; M. Thompson 2004). Certainly, the basic rights which are the focus of Human Rights theory are ‘the most sharable and the most independent of specific spatial and temporal contexts’ (Cavaleri 2002, 127). Yet, while this tells us what *kind* of thing basic rights are, it does not tell us what *content* they will have. The wronging a particular dignity-bearer is vulnerable to will be sensitive to the normative relations that the potential victim, perpetrator and third parties find themselves in (Zylberman 2017). *Specifying* the content of rights is therefore one area among many where the Conventionalist seems to be correct that we should acknowledge the importance of how dignity is deployed in practice in order to bridge the gap between separate disciplines, cultures and even species in an ‘interstitial’ manner (Riley 2019, 446). A conception of dignity beyond the human can therefore incorporate a degree of Conventionalism beyond the human, too.

1.5 The Defects in Conventionalist Accounts of Human Dignity

Nonetheless, if the Conventionalist is to justify the HST, and overcome the Scope Challenge, they must show that we can plausibly give up the natural grounding and intrinsic value conditions. I contend this cannot be achieved.³¹ To begin, imagine the following:

Blueville: In Blueville there are bluman rights rather than human rights. Bluman rights are coherently socially constructed through the notion of bluman dignity: a conception of dignity that captures practices of social inclusion for all humans with blue eyes. These practices involve blue-eyed humans treating themselves and one another as if they have a high “rank”. Despite other physical differences, blue-eyed humans all receive institutionally protected bluman rights, while humans with other eye colours lack legal protections entirely.

³¹ Another notable critique argues the notion of species hierarchy is inherent to Conventionalism, and that this undermines the purposes of the Human Rights project rather than promoting them (Kymlicka 2018).

According to Conventionalism the possession of blue eyes simply reflects a social fact about *how* bluman rights have been constructed and interpreted across time. Thus, the Conventionalist argument for bluman dignity, like the Conventionalist argument for human dignity, would be impervious to *external* critique: the only route open to object to this state of affairs is to claim Blueville as a whole does not seem independently plausible. Similarly, I claim that while the notion of being a member of the human community has coherence, it is no better than any alternative (mutually incompatible) coherent view, like the notion of being a member of the bluman community. This makes Conventionalist accounts ambiguous: they are unable to tell us *why* social practices are justified because all explanations will refer back to those same social practices. The Scope Challenge therefore rears its head again: can an account be non-arbitrarily plausible and coherent *without* the natural grounding and intrinsic value conditions?

The case of Blueville suggests not. Either Conventionalist accounts become contingent and ambiguous, because they fail to provide the intended scope of dignity with independent plausibility, or they collapse into Naturalism, which, as we have seen, cannot justify the HST because it too fails to overcome the Scope Challenge.³² Hence, if we are to persuade a sceptic that some being (human or otherwise) has dignity, we need a justification which is grounded in natural, intrinsically valuable properties (Fasel 2019, 546; Pojman 1992, 613).

One first blush attempt to respond to this independent plausibility complaint in a non-Naturalistic way is to claim that the importance and desirability of the Human rights practice-paradigm *is* what makes the HST independently plausible. Human rights are embedded in the institutions and norms which make up the community (Killmister 2020; Pollman 2014, 134; Waldron 2012b). Human dignity is not therefore *only* something which we have because we have human rights, it is also ‘a standpoint from which Human Rights can be assessed and critiqued’ in a dialectical fashion (Killmister 2020, 147). As a result, the Conventionalist might claim there is an externalist element – the community itself, which claims that the HST is a necessary social construction.

³² Raffael Fasel (2019) describes this issue at a general level as a ‘Zero-Sum’ problem. Any gains achieved by moving closer to Naturalism are offset by taking on the problems associated with that theory (and vice versa).

While this may accurately describe the practice-paradigm, it does not provide us a way out of the complaint. It still fails to justify *why* the HST in particular is the chosen scope. Which scope is selected appears entirely contingent: just as in the case of Blueville, the community can always be wrong. Killmister's (2020) Conventionalism is strong because it acknowledges and attempts to respond to this. Killmister (2020, 139–40) argues that even if local understandings of what it means to be human vary – for instance if a racist community excludes people of certain skin colours – ‘there is nonetheless a global variant of the human in which you will be held’. While this is optimistic, it underestimates the possibility for local viewpoints to become global and *overestimates* the security of the justification on which Conventionalism relies. That is, institutions can be overthrown, and socially constructed ideas reshaped. What's more, it may seem there is *greater* vulnerability to this, the more reliance we place on those social constructions. For instance, human rights norms could always change so as to become *less* inclusive, such as in Blueville. Conventionalists might claim that historical and legal precedent guards against this, but conservative values can and have been overturned. If this occurs, there is little Conventionalism can say to object – but it nonetheless seems there is solid grounds for complaint. The possession of dignity should therefore rest on more than a mere social claim to membership in a global community.

Precisely because this approach eschews natural properties, inconsistencies about *who* has dignity will inevitably arise for the Conventionalist whenever the Scope Challenge is raised; the natural properties of beings must ‘be taken into account’ to avoid this (Fasel 2019, 550). As we have seen, there is good reason to worry about solely relying on natural properties: Conventionalism is motivated by the fear that certain humans such as children and the profoundly cognitively disabled might be excluded from an account of dignity. But this concern about inclusiveness is two sided, and vulnerable nonhuman animals are on the opposite side of the fence. Because of this, Kymlicka (2018, 770) has argued that ‘human dignity is defended on the backs of animals’ under Conventionalism. To be clear, Conventionalists rarely claim that non-human animals lack *a* moral status *entirely*, and more recently some attention has been paid to the status of non-human animals in Conventionalism (Killmister 2020, 148–54). Instead, and more plausibly, Conventionalists contend that while animals have *some* moral status, humans have a distinct *kind* of moral status worthy of dignity – and restricting that status to the “human”

is integral to maintaining it.³³ As we have seen, the Conventionalist depends on coherent social construction to justify this. So, it might be claimed that it is simply a ‘social fact’ that dignity obtains in such a way that excludes animals in current Human Rights practice (Killmister 2020, 36), making the “human” a *social* rather than a *natural* kind. What’s more, Killmister clarifies that the HST obtaining is not a *brute* fact but a socially constructed ‘interactive kind’ (Hacking in Killmister 2020, 145) according to which those who count as members going forward can change. On this understanding, human dignity is something which is constructed in flux, and so it is not out of the question that it could be applied to other animals (Killmister 2020, 139). As it stands, tradition and the norms which it has discursively settled on justify the fact that the HST obtains in this exclusionary way – but this need not *necessarily* be the case.

While this work in social kinds might be *politically* valuable (Bird 2021; Etinson 2020; Killmister 2020), it should not form the basis on which dignity is fundamentally justified. This is because it is in clear tension with the notion of the HST as a *necessary* tenet in a coherentist framework. Either the HST can change, and it therefore isn’t the necessary tenet in the framework it purports to be. Or it cannot change (because it is a necessary tenet), but human dignity cannot be the inclusively expanding interactive kind that Killmister is suggesting it might be. This is because unless it refers to natural properties, it will inevitably reinvoke the Scope Challenge: the Human Rights project’s endorsement of the HST lacks independent plausibility. As I have mentioned, the point here is not to deny that conceiving of dignity as a social kind has some political value – Killmister’s (2020) arguments demonstrate that it does. The point is instead to show that who to *include* and who to *exclude* as possessors of dignity ought to be determined with reference to natural, intrinsically valuable properties rather than as part of a socially constructed coherentist framework. Otherwise, there is no way to ensure that we have adopted the right starting point.

To fully close the lid on the HST, let me demonstrate why it is unlikely that a hybrid Naturalistic-Conventionalist view could justify it instead. The hybrid account with the best prospects will be one which takes on a modal-relational approach. First, the relational view acknowledges the importance that the Conventionalist places on the community

³³ See (Kymlicka 2018) for a critique of this.

which generates the socially constructed kind “human dignity”. Second, a modal-relational approach can be constructed with only *indirect* reference to a *potential* capacity because the relations are taken to be a necessary *presupposition* for the coherent framework to hold (Árnason 2021, 38–39). Naturalistically, the modal capacity to relate is strong because it includes nearly all humans and is conceivably of intrinsic value, even if it faces some metaphysical worries,³⁴ but it also seems unable to directly justify the HST because it will also *include* many nonhumans. Nonetheless, combining this with Conventionalism might save the day: while the potential capacity to relate and become a community is necessary for the HST to be discursively endorsed, possessing the potential capacity to relate would not be the reason the HST *is* endorsed – instead, this capacity would be actively disavowed. If members of the community have this capacity, then they can engage with the rest of the community in a reciprocal manner to construct dignity as the standing to make claims on others (Zylberman 2016, 2017, 934–36, 2018). The modal capacity to relate might not be the *grounds* of dignity, but it would be a necessary element for the construction of dignity. Note that this kind of approach to theorising moral status is developed by various proponents who *do not* explicitly endorse the HST (Metz 2012; Sangiovanni 2017; Zylberman 2021).

Even if plausible in its own right, this route cannot hope to rescue the HST, because it remains vulnerable to complaints about arbitrariness. Note that if dignity arises for some entities because of a potential relation with other entities, then dignity appears to have only a contingent value, even if it is based upon a history of law and democratic reason. The modal capacity to relate is possessed by beings other than humans. So, while we could claim adult humans and children have dignity, we would still need an explanation for why some nonhumans with the modal capacity to relate lack it. This seems especially hard to justify given Conventionalism is concerned by vulnerability and inclusion. Moreover, there are some humans who seem to lack even the potential for the capacity to relate, for instance humans in deep comas or with seriously profound cognitive disabilities, and some animals for whom social relations simply aren’t important/relevant despite possessing other seemingly morally relevant capacities. These humans and animals would only gain dignity due to being the recipient of a potential relation. While this might

³⁴ See footnote 25.

not be merely based on the whims of human preferences, but on a communal process of construction of social norms, the moral consideration of those with mental impairments, and of non-human animals, ought not to depend on their being the object of a relation. On this view, if no human relates communally with a certain being, then we would at worst have no means to claim a wrongdoing whatsoever and at best, no means to explain why the wrong that is committed differs from that committed against an adult human. What seems problematic here is that while such an approach gets some of the way in acknowledging the natural properties of a being, it still seems both ambiguous and contingent exactly because it endorses the HST.

Neither a hybrid nor a strictly Conventionalist approach can therefore hope to salvage *human* dignity. Much like the critique of Liao's Naturalistic account, this critique generalises because it demonstrates *a fortiori* the broader force the Scope Challenge sets up: dignity ought to be coherently grounded in a natural property of intrinsic value. Conventionalist attempts to justify the HST are doomed to fail, because they are premised on eschewing natural properties to even get off the ground.

1.6 Conclusion: Beyond Human Dignity

Naturalistic and Conventionalist accounts of human dignity fail to provide adequate justifications for the thesis that almost all and almost only humans have dignity. As variations between these methods engage in a 'zero-sum problem' (Fasel 2019, 547) whereby any advantage derived from moving closer to one account is offset by taking on at least some of the issues associated with the other, this conclusion generalises beyond the accounts I have examined.

It follows from this that we ought to pursue a revisionary account of dignity that *includes* nonhuman animals and reimagines the meaning of "human" rights beyond the human. But, you might object, this is not the only possible option: we might also *restrict* the scope of dignity to a subset group of humans who have certain intrinsically valuable natural properties, or we might even give up on dignity entirely. Optimistically, I want to immediately rule out abandoning dignity. As I mentioned in the introduction, the reason for this is that dignity and human rights practice have a lot of political value. Assuming we therefore maintain dignity, it ought to be extended rather than restricted because

excluding some humans not only undermines what motivates proponents of the HST in the first place but would also fail to coherently make sense of the moral relevance of qualities shared by both human and nonhuman animals.

To see this, recall that I have argued that the Scope Challenge teaches us two lessons about how we should coherently justify dignity:

- 1 Dignity should be grounded in a natural property or properties inherent to a being since it otherwise lacks independent plausibility (the natural grounding condition).
- 2 The natural property or properties grounding dignity must have intrinsic value in order to be non-arbitrary (the intrinsic value condition). In brief, my arguments were that if the property does not have intrinsic value, then it fails to make sense of the claim that bearers of dignity have intrinsic value.

Taken together, these two conditions are noncommittal about whether dignity's scope should be extended or restricted, depending on the intrinsically valuable natural property that it might be argued grounds dignity. In other words, a range of possible accounts of dignity might overcome the scope challenge by meeting these conditions, including ones which are more inclusive (e.g., grounding dignity in sentience), or less inclusive (e.g., grounded in rational agency). These two conditions are therefore coherent with a range of different views that *do not* endorse the HST.

However, we still ought to reject less inclusive views of dignity: an account of dignity ought to extend *beyond* the human, to include nonhuman animals *and* all vulnerable humans. First, what encourages proponents of the HST to defend it is a norm in contemporary human rights practice that says we ought to include *all* humans as bearers of dignity, regardless of physical differences. Restricting dignity's scope would be incoherent with this norm. We should not leave the rights of vulnerable humans lacking the intrinsically valuable natural property we might identify (such as rational agency) 'hanging by a thread' (Kymlicka 2018, 778). To do so not only runs against the whole direction of human rights jurisprudence, but would be morally disastrous, amounting to the legitimisation of certain mistreatments. The extension proposal captures this because it means including all humans, with one revision: that it is not *only* humans but also animals who are included. In other words, if it is morally undesirable to exclude *some* humans, but

the HST is unjustifiable, then the only remaining option is for dignity to extend to nonhuman animals. Second, the extension proposal also coheres with a growing literature which considers and includes nonhuman animals as rights-holders because of the moral relevance of certain shared properties including, for instance, sentience, the capacity for basic agency, and the capacity to form social bonds (Andrews et al., 2018; Cochrane, 2013; Rachels, 1990; Singer, 1975). A *shared* concept of dignity beyond the human would capture this with advantages for “human” rights: both animals and humans would receive legal protections, and dignity/rights would achieve a solid foundation.

Much like the Scope Challenge, the idea that animals possess dignity is not new.³⁵ Nonetheless, its coherence and continuity with “human” dignity has received little attention. Part of the reason for this, I suspect, is that the full force of the Scope Challenge against the HST has not been recognised. I have argued this is a mistake: the Scope Challenge is sufficiently convincing to encourage us to revise our understanding of dignity to include nonhuman animals – and to include them in the “human” rights following on from dignity as well.³⁶ By drawing on current human rights practice, we ought to reconstruct a more plausible account of dignity *beyond the human*. In the next chapter, I turn to that task.

³⁵ See, for instance (Cataldi 2002; Gruen 2014; Nussbaum 2005, 2023).

³⁶ Among animal ethicists, this project has already begun (Andrews et al. 2018; Cavalieri 2002, chap. 8; Cochrane 2013).

Sentience as the Basis of Dignity

2.1 Introduction

In this chapter, I defend a novel account of the basis of dignity, one that extends *beyond the human*. I argue that it is because they *value* states of affairs, objects, and activities, that both nonhuman and human animals have dignity. This capacity to value comprises two conditions:

- i. The possession of teleological interests, that is, the possession of an end which, if achieved or obstructed, would be good/bad for the entity that possesses it (the interests condition).
- ii. The capacity to experience modifiable mental states (the consciousness condition).

Many non-sentient organic entities, such as plants, fulfil the first condition alone. What sets *sentient* creatures apart is that they fulfil both conditions, meaning that they experience what it is like to be benefitted and harmed by the achievement and obstruction of their ends. In other words, if a being can both experience modifiable mental states and possesses ends that benefit or harm them, then I claim that they can value some objects, activities, and states of affairs over others, and therefore that they have dignity. Put formally, I argue that the above two conditions generate:

Valenced Sentience: The capacity to value the achievement and maintenance of particular ends in and of themselves.

To illustrate, one of the ends that squirrels possess is the burying of nuts in the autumn. In the same way, you might possess the end of spending time with friends. But because you both also have the capacity to experience mental states that change over time, your ends hold huge importance to each of you. They structure your lives: you act in ways that will help you pursue and achieve your ends and try to prevent those ends being undermined or obstructed. For instance, maintaining your friendships might be hugely

important to you, so you might spend time with friends often as a result. Similarly, because a squirrel highly values the burying of their nuts, in the Autumn, gathering and burying nuts takes up the majority of their time. When our ends are achieved, or obstructed we can be affected in a myriad of different ways. We, and our fellow creatures, experience pain, joy, grief, sound, sight, and a host of different emotions and sensory inputs which colour our experiences. I claim that it is this colouring which explains why some entities, and not others, are vulnerable to being directly wronged. This colouring gives rise to the act of *valuing* one thing over another and, with it, it gives rise to a being's dignity. Unlike a rock, a dignity-bearer values the things that happen to it.

To arrive at the claim that all bearers of the capacity to value have dignity, I proceed through five steps. In step one, I start by clarifying the most plausible means of answering the question of which beings do and don't have dignity, using considerations from the previous chapter as a springboard (section 2.2). In step two (sections 2.3 and 2.4), I defend the interests and consciousness conditions as *necessary* and jointly *sufficient* for the scope of dignity. Next, in step three (section 2.5), I explain why I take the combined meaning of these two conditions to be valenced sentience, and I argue that since this property comprises a capacity to value, this interpretation of sentience develops on traditional Sentientist accounts insofar as it is explanatorily deeper and captures a greater range of experiential inputs. In the fourth step (section 2.6), I present an argument for *why* the capacity to value has intrinsic value. In the final step (section 2.7), I tie this account of dignity together: I argue that the capacity to value grounds our dignity if and because we should think of the intrinsic value of it as providing *basic* deontic reasons (reasons that generate rights claims).

2.2 The Question of Scope

We have already seen that a successful account of dignity must meet two conditions:

1. The natural grounding condition: dignity should be grounded in an inherent natural property or properties of a being.
2. The intrinsic value condition: the natural property/properties grounding dignity must have intrinsic value.

The natural property that grounds dignity should cohere with the scope of application of the concept of dignity, so that all beings with the relevant property are included in the class of beings with dignity. If the capacity to value is the basis of dignity, as I will argue, then all bearers of it ought to be included in the class of beings with dignity. As I argued in chapter 1, this is because coherence is a general condition on epistemic justification. Because of this, the above two conditions are consistent with Rawls' (1971, 48–50) method of Reflective Equilibrium. Reflective equilibrium seeks to achieve the most plausible understanding of the principles of morality, principles which cohere with certain considered convictions about wrongdoing and can be reasonably justified to others. This method is therefore neither *purely* Naturalistic nor Conventionalist in its justification (Scanlon 2003). Instead, it draws on both strategies. I will assume this approach is plausible. Instead, I want to explain how it applies to the question of the *scope* of dignity: even if we fulfil the above two conditions, how will we know that the account I offer is the right one?

The problem cases will be ones in which the foundational principles do not cohere with our convictions. For instance, the natural property that grounds dignity might generate a scope of application that does not fit with our convictions about which beings (ought to) have dignity. As we saw in chapter 1, this can be plausible grounds for rejecting an account. I claimed that we should not *restrict* the scope of dignity to include only *some* humans, but instead we should extend dignity beyond the human. One reason for this is down to the moral undesirability of excluding some humans from an account of dignity (the conviction that drives the Conventionalist about dignity). But a second reason is because of the moral relevance of certain shared properties *between* humans and nonhumans. As such, our considered convictions are working in two ways that have already helped us to determine what kind of property might ground dignity: one possessed by all humans, and by at least some nonhumans. So, even if we were to discover a natural property of intrinsic value that might ground dignity, but which some humans lack (such as agency), we would have good reason to reject that property as a basis of dignity *because* it fails to cohere with these considered convictions.

However, we not only have convictions about who ought to be *included* in an account of dignity, but about who ought to be *excluded*. Many people think that rocks don't have

dignity, but some also hold that cows, bees, and fish don't as well. If we gave justificatory weight to convictions about who ought to be included in an account of dignity, then shouldn't we also give weight to these beliefs about who ought to be excluded? And since this will produce conflict with certain properties that might ground dignity, how ought those conflicts to be resolved? To answer these questions an important clarification is needed. Reflective equilibrium is not about giving *unexamined* weight to our beliefs. Convictions about particular cases of when and whether a wronging occurs act as *provisional* judgement points for determining whether any particular conception of dignity is correct. To be sure, if we have an intuition that nonhuman animals do not have dignity, then that intuition ought to be investigated to see if there are any coherent and well-justified reasons for holding it. However, if it is found that there are no good reasons, or the reasons are incoherent with other principles and convictions, then that intuition ought to be rejected. On the intuition about excluding nonhuman animals, I think this is likely the correct conclusion – this intuition is more likely to come from Speciesist ideas than from a well-considered theoretical position (Horta 2010; Jaquet 2021). This is an instance in which a conviction ought to be revised if and because it fails to cohere with a general justificatory picture. In other words, we ought to seek coherence *between* our beliefs and the justificatory basis for holding them and, where conflicts arise, we revise those beliefs which are the least plausible to hold, produce the most incoherence, or otherwise have morally undesirable implications.

Using this method, I will argue that valenced sentience, comprising the capacity to value, is the basis for dignity. The process of reflective equilibrium tests this by leading us to consider our moral reactions to proposals that particular properties should ground dignity, and how they fit within broader considerations of value and its moral relevance. However, note that while I provide an account of the basis of dignity, I do not aim to *solve* the question of scope – we do not have the 'comfort' of sharp line drawing when it comes to questions of this sort (Peña-Guzmán 2022, 56), for two reasons. The first are epistemic limitations regarding knowledge of animals' lives and experience. The second are down to conceptual ones: we might be uncertain that for all animals it is as simple as saying they either do or don't have dignity. Rather than sharp line drawing, I aim to outline the kinds of beings whose lives do and do not have the moral importance associated with dignity. Sections 2.3-2.4 will focus on determining the necessary and sufficient conditions

for this, but I understand those conditions to identify grey areas. To justify these conditions, I will largely rely on thought experiments. While this means that it may not be immediately obvious *which* beings on the very margins fulfil the conditions I will settle upon, relying on thought experiments is the most plausible approach. This is because it adopts a ‘theory light’ perspective, according to which we search for *markers* of the relevant conditions, rather than aiming to discover clear-cut evidence of them (Andrews 2020; Birch 2022b). On the one hand, real world cases can be contested because research is still being done into measuring consciousness (Browning and Veit 2020). The lines are therefore blurred. On the other hand, thought experiments will allow me to be specific about what characteristics are necessary for a being to have a vulnerability to wrongdoing. I concede that this approach is not infallible. Not only can our considered convictions about these questions be unreliable, but much is likely to (and should) depend on scientific evidence about which natural properties different beings possess, and what mental states they can experience (Birch 2022b). This produces a certain kind of epistemic and conceptual discomfort. As Peña-Guzmán (2022, 58) writes, ‘we will never fully capture animals in our conceptual, linguistic and hermeneutic nets.’

Nonetheless, I adopt three strategies that seek to *mitigate* this epistemic and conceptual discomfort. The first is to acknowledge that the account I offer is sensitive to particular *precautionary* principles; if we are sufficiently uncertain about whether a particular property is morally relevant, or whether a being does fulfil the relevant criteria, then we should err on the side of caution and assume they do (Sebo 2022, 150–53). This principle is limited because there is a cost to assuming that entities have a moral status in cases of uncertainty. Specifically, we should be careful not to *over* ascribe moral status in our reflective deliberations because this will have consequences for the beings that we are *almost certain* do have moral status in trade-offs and resource allocations.

The second strategy is to realise that the account should be sensitive to scientific evidence by being multi-dimensional (Birch, Schnell, and Clayton 2020). That is, the basis of dignity will depend on the scientific evidence in at least two ways. Most importantly, scientific evidence will help to specify which beings actually fulfil the conditions more accurately. In this sense, whether the being possesses the grounding property will partially dictate our response. As such, we ought to be open to the latest scientific evidence on cognition about which different beings might possess the relevant grounding properties, thereby

determining more accurately which beings are bearers and non-bearers of dignity and to reduce our reliance on precautionary principles (Birch 2022b). However, that evidence will also help us to *adjust* our considerations of who has dignity. That is, the property that I will argue grounds dignity (valenced sentience) is a philosophical *interpretation* of the necessary and sufficient conditions I defend. That interpretation may need to be adjusted depending on what scientific research discovers about the kinds of mental states certain nonhumans experience (Birch 2022a; Birch, Schnell, and Clayton 2020). Note that despite this, the scientific evidence will not *determine* the basis of dignity, nor will it determine how we interpret the natural properties into an account of wrongdoing, since dignity is a moral property, not an empirical one. Scientific evidence may therefore help us in more accurately specifying the scope of the conditions on which dignity depends, but it will not straightforwardly determine what that scope is – only philosophical argument can achieve that.

The final strategy is to ensure the most plausible balance between conceptual parsimony and explanatory power. An account that is conceptually parsimonious makes as few conceptual *commitments* as possible, comes with far fewer conceptual *costs* and therefore it has a much lower justificatory burden (Schaffer 2015). This reduces the range of potentially fallible claims. If an account is parsimonious, it is less likely to make contested or implausible presumptions. However, parsimony is only a virtue of a theory insofar as that theory still has sufficient explanatory power. A *primitive* concept (a concept which is not explanatorily reducible to further concepts) has strong explanatory power if we can rely on the extension of that concept to elaborate and define further *derivative* concepts that can do explanatory work for us. This does not exclude the possibility that we might introduce a new primitive concept – but it does mean that the burden of proof is on showing why that concept is needed, and what it adds to the account that cannot already be explained. This puts the onus on achieving a plausible balance between parsimony and explanatory power.

Having clarified the above, step two is to use this approach to argue that dignity can be grounded in two necessary and jointly sufficient conditions: the interests condition (the possession of teleological interests) and the consciousness condition (the capacity to experience modifiable mental states).

The third step in my argument (section 2.5-2.7) involves making sense of the moral relevance of these two conditions. This means explaining why these conditions jointly amount to *valenced sentience*, comprising a capacity to value, and why this capacity has intrinsic value and therefore grounds dignity. My goal here is to make sense of *what* kind of life a being fulfilling these two properties lives and why living this kind of life makes a being vulnerable to wrongdoing. In section 2.5, my focus will be on working out the combined meaning of these two conditions. Section 2.6 will focus on why the capacity to value that they produce is of intrinsic value. Finally, section 2.7 will build on the arguments I offered in the previous chapter to argue that this allows us to explain the possession of dignity understood as a *deontic moral status*. In concluding, I will explain why this account fulfils the conditions for a successful response to the Scope Challenge that I outlined in the previous chapter.

2.3 The Interests Condition

Let us start with the argument for why the possession of teleological interests is a necessary condition for both the possession of the capacity to value, and for the possession of dignity. A being possesses teleological interests just in case they are the subject of a teleological end, and the achievement of that end is good for them.

At a general level, teleological ends are the object(s) towards which entities are directed towards achieving. Humans, animals, and plants are all subjects of ends. For instance, a birch tree has the end of photosynthesising, many humans have the end of forming meaningful social connections, and animals such as squirrels have the ends of burying nuts to eat in the winter. These ends not only structure the way we live our lives, but they have biologically structured the development of our parts and traits in Natural Selection. Certain parts or traits that help us to achieve our ends have been selected for in each organism's natural history. For instance, a birch tree grows tall in order to reach above other species of tree and therefore better achieve the end of photosynthesis. Similarly, squirrels have paws that are well suited to scurrying at and digging in the soil. This allows us to say that some entity has an end insofar as the entity (as a whole) or the being's parts/traits are directed towards achieving that end. Put formally:

E is T's end just in case E is that which T, or T's parts/traits, are directed toward achieving.

However, while plants, animals and humans are all subjects of ends in this way, we can also distinguish between two different *sources* of different entity's ends (Basl 2019, 70; Wright in McShane 2019). For example, when we, adult humans, talk about what we are going to do with our day, these are ends which we arguably *construct* on our own terms (e.g., to write a PhD!). In contrast, I might ask my partner whether she has watered our aloe vera plant. When I do so, I am concerned with the fulfilment of the plant's "natural" end: to have the right amount of moisture in its soil. These represent two extremes – an end might be derived from pure "natural" biological functions, but it might also be reflectively "constructed" using rational capacities. The difference between my ends and the aloe vera's is in the *source* of the teleology. In practice, many humans' and animals' ends contain a *mixture* of different teleological sources. Some of our ends come from pure biological dispositions (e.g., to eat sugary foods), while others are constructed with the use of our agency and the sense of what matters to us (e.g., I might choose to pursue a career in philosophy), while others still are derived from rationally *directing* a biological disposition (e.g., to follow a chosen recipe to eventually satiate hunger in a selected way). The extent to which nonhuman animals do in fact "construct" their own ends is a question I will not consider here. While this topic is morally salient, for my account it is sufficient that nonhumans merely *have* ends.

Nonetheless, merely having ends is not sufficient on its own. Instead, the end must also be *good for* the entity that has it, and so be classed as an *interest*.³⁷ Call ends which are *good for* the ends-possessing entity *teleological interests*. I will not provide an account of welfare vis-à-vis teleological interests here (doing so is outside the scope of this project). However, we can use the idea just discussed that ends could have different sources to be somewhat clearer about what "good for" means. For constructed ends, the explanation for why an end is "good for" a being might be fairly straightforward: an end is good if and because the being has selected that end and so endorsed it. This does result in some problematic cases, where beings might select ends which are "bad for" them, such as

³⁷ It may be that all entities that have ends do in fact have interests – but the point is that the goodness of the ends for the entity must still be explained.

smoking. But to explain these cases we need to know in what sense the end is bad for the being – which brings us to our “natural” ends, against which constructed ends can often conflict. A natural end is good or bad for an entity insofar as it promotes the entities biological flourishing.³⁸ In the next chapter, I defend my view against the objection that biological flourishing is sufficient for dignity (3.2, 3.3 & 3.6). For now, I simply note that an interest is an end that is good/bad for the ends-possessing entity. I address the meaning this has for sentience wholesale in section 2.5 below after introducing the consciousness condition.

With this in mind, why is the possession of teleological interests necessary for the possession of dignity? Simply put, because it is not clear what it would mean to wrong an entity unless there is a sense in which their interests *could* be frustrated (Bernstein 1998, 13).³⁹ To see the intuitive appeal of this idea, consider a rock. A rock cannot be wronged exactly because a rock lacks interests. The fact that the rock does not possess teleological interests is what explains why smashing it is an amoral act. In reverse, part of the reason it is wrong to harm a dog is because dogs *do* have ends and those ends have significance, depending on how we account for their value, because achieving them is *good for* the dog.

To be clear, this is not to suggest that all *instances* of wrongdoing must also be instances of harming. It might be true that you could, for instance, wrong a farmer by trespassing on their land without harming the farmer if they never came to know about it or

³⁸ Some philosophers want to reserve the term “interests” for when a being can *experience* the achievement or obstruction of their ends, because it helps us to distinguish between bearers and non-bearers of dignity (Cochrane 2018, 17). I do not opt for this route because I think extending an account of *basic* interests (or ‘biological flourishing’ (Cochrane 2018, 17)) to non-sentient organic entities might help rather than hinder our ability to distinguish morally between sentient and non-sentient entities (see section 3.3), by allowing us to make sense of why non-sentient entities do not have the *kind* of interests that merit dignity.

³⁹ Many accounts are explicit in relying on this condition. For instance, Sentientist Accounts claim that to be a dignity-bearer one must possess the capacity for sentience, ordinarily understood as the capacity for pleasure and pain. Both the achievement of pleasure and the avoidance of pain are understood as teleological interests which a being is directed towards achieving. Similarly, Biocentric accounts, which I shall examine in the next chapter, are committed to this claim in an explicit sense. Other accounts, most prominently agential accounts, are more implicit in their commitment to it, but it nonetheless plays a necessary role. Agential accounts argue that the possession of agency is what makes one vulnerable to a wronging, supervening on the capacity for rationality or moral personality. Even if it goes unstated, agency is a certain kind of teleological interests possession: it includes the capacity to construct or discover ends independently. In the next chapter, I also consider agential accounts of dignity in further depth.

experience any detrimental effects by it. But I do think that it is only *possible* to wrong the farmer if it is *also* possible to harm the farmer. In other words, while harming is not necessary for a wronging, the possibility of being harmed is, and that is why the interests condition is necessary. I believe this is a relatively uncontroversial claim which we can motivate by thinking about assigning rights to an entity which does not have teleological interests. The case of legal personhood for a geological formation, such as the Grand Canyon, is useful here. If it had this legal status, the Grand Canyon might have legal rights, but it would seem odd to think that this corresponded with certain *moral* rights that the *Grand Canyon* in and of itself is owed (such as not blowing it up or defacing it). We can explain this absurdity by explaining that the Grand Canyon does not have an independent welfare: geological formations cannot be harmed or benefitted. So, while we might not need to harm someone to wrong them, it must be *possible* for us to harm them.

2.4 The Consciousness Condition

For a being to be a bearer of dignity, however, I argue they must not only have ends which are good for them, but achieving those ends must ‘matter’ to the being (Cochrane 2018, 18). I call this second restriction on *who* has dignity the consciousness condition. This condition is endorsed in a variety of different forms (DeGrazia 1996; Peña-Guzmán 2022; Shepherd 2018; G. E. Varner 2012), but as I understand it, it requires the possession of *modifiable mental states*.

Of course, at a general level, consciousness is simply the capacity for some kind of awareness, what Block (1995) refers to as phenomenal consciousness.⁴⁰ A being that is phenomenally conscious has experiences that are ‘luminous’ (Peña-Guzmán 2022, 65), insofar as ‘their consciousness is fundamentally that which reveals or makes manifest’ (E. Thompson 2017, 14). Without it, nothing would appear to some being, because consciousness is the capacity to have things *appear to*, in the first place. Beings that have phenomenal consciousness therefore experience mental states (also known as ‘qualia’ in the philosophical literature). A mental state is the way it feels to have a particular

⁴⁰ According to Block’s (1995) well-known understanding of consciousness, phenomenal consciousness ought to be distinguished from access consciousness. Access consciousness is to do with rational conscious control of action and speech. When I use the term consciousness, I have the former understanding in mind. While the latter kind of consciousness is relevant *to* the formal capacity to value, it is not a necessary or sufficient condition *for* the capacity to value.

experience (Block 2004). A bit more precision is required to understand the significance of mental states though, because it is not just having them but the fact that they can be *modifiable* which is necessary for the possession of valenced sentience, and therefore dignity (Bernstein 1998). A mental state is modifiable if it can be altered in significant ways, either through the being's own actions or through things that might happen in the environment. For instance, Pad the dog's mental state might change if I pull a ball to throw out of my pocket. Prior to doing so, Pad might have been bored, and afterwards he might experience excitement. In practice, most beings that have phenomenal consciousness likely have it in this modifiable variety. But it is at least imaginable that some beings might not (such as amoeba). To justify the consciousness condition, I test our intuitions in response to the following cases:

Sense, an entity which has teleological interests and additionally has the capacity for phenomenal consciousness, but does not *in fact* experience any mental states, as if they are in a never-ending coma (Kagan 2019, 14).

Stub, an entity which has teleological interests and experiences a single mental state (e.g., the sensation of having just stubbed a toe), but their mental state is not modifiable (Bernstein 1998, 23).

Sharp, an entity which has teleological interests and additionally experiences modifiable mental states: hearing a range of sharp and flat musical notes.

I claim that it is not possible to wrong Sense or Stub, but it might be possible to wrong Sharp in certain specific ways. While these cases are contrived, I use them in the method of reflective equilibrium to explain why the interests and consciousness conditions are jointly necessary and sufficient for the possession of dignity.

Begin with Sense. Sense *merely* has the capacity to experience without possessing any qualitative *type* of experience (Kagan 2019, 14). We can imagine that Sense has auditory experiences, for instance, but that none of them produce effects on Sense's internal mental states, as Sense has no mental states. They might even have a wide array of such experiences, but none of them generate any kind of mental state in Sense. In other words, there is nothing that it is "like" to be them. In practical terms, this is similar to a human in deep coma-like state. The difference is that Sense always has been in this state, and

always will be. While it seems intuitive to say that coma patients can often be directly wronged, the force of this might come from either imagining the person that this individual was, or the person they will be when they wake up. While this raises questions about identity over time in relation to wronging, I don't believe it is controversial to draw a sharp distinction between the (continuous) person that it seems we are wronging in episodic instances of a coma, and Sense, whose coma-like state is both unending and unalterable. It doesn't seem possible to directly wrong Sense (Kagan 2019, 14), exactly because Sense never has existed outside of their coma state, and never will. To see this, imagine someone wants to chop one of Sense's limbs off for fun. Many current accounts of moral status would contend that this person would not be wronging Sense in doing so,⁴¹ and my account is no different: chopping Sense's limb off might be conceivably *bad for* them if Sense can have a welfare, but it is not morally wrong. This is because Sense does not experience any mental states.

Now consider Stub, a being which does experience *mental states*, but only one: constant mild pain, as if they had just stubbed their toe. While Stub does have a certain quality to their experience (mild pain), the character of their experience cannot be modified (Bernstein 1998, 23). Nothing we do to Stub affects any change in their mental state, even though they do experience *a* mental state. Now, it certainly seems we have the intuitive reaction that Stub ought not to be in this state: the experience of mild pain from stubbing one's toe is an experience *we* would wish to avoid. But it is the only experience which Stub has ever known and will ever know. Thus, even if the pain Stub experiences is akin to the kind of pain we do when we stub our toes, they would not even be aware that there is something other than this experience. So once again, if we imagine someone chopping off one of Stubs limbs for fun, it seems correct to say that it would not be possible to directly wrong Stub, either. It follows that we might do anything we want to them without wronging them.⁴² Regardless of what we do to them Stub will experience nothing but the sensation they already do feel and always will feel: mild pain. Thus, while Stub has teleological ends, which might be characterised as interests under certain theories of

⁴¹ The Biocentric Accounts I examine in chapter 3 are an exception.

⁴² The actions might still be impermissible for other reasons though e.g., their effect on our moral character.

welfare, their experience remains unchanged by the fulfilment or obstruction of these ends (Bernstein 1998, 23).⁴³

The cases of Sense and Stub both demonstrate that the mere capacity to experience mental states is insufficient to ground dignity. Even if we take them to have interests which could be harmed, insofar as they have teleological ends which could be advanced or obstructed, then Sense and Stub cannot be wronged. I suggest that this is because the experience of mental states must be *modifiable* to generate a wrongdoing. In other words, a vulnerability to wronging is not grounded in just *any* vulnerability to harm but *particular kinds* of vulnerability to harm: harms associated with modifications in a being's mental state.⁴⁴

Comparing two marginal cases will put this to the test. Consider Stub again, a being with the capacity to experience mental states, but not of the modifiable variety. Stub is likely to be the kind of entity which *only just fails* to be included as a bearer of dignity. But I argued that it is intuitively correct to exclude Stub. So, it is useful to compare Stub with the kind of being which only just *achieves* these conditions – Sharp. Sharp is a being which can experience some modifiable mental states, but not those which are modifiable to great extents. I claim that Sharp can be wronged, even if their mental states can only be *marginally* altered. Imagine, for instance, that Sharp only has auditory experiences, either those equivalent to hearing a constant flat, or a sharp musical note. Assuming that Sharp also has teleological interests, we can imagine that it is in sharp's interest (it is *good for* Sharp) to experience a sharp musical note, of some kind (this end need not be "chosen" by Sharp, it might simply be a natural end that sharp possesses). If we were to wrong Sharp, we would wrong them by making it such that they *stopped* experiencing sharp notes

⁴³ You might object that we can change stub's mental state in at least one way: by ending their existence. If this is possible, then this arguably counts as a modification relevant enough to ground Stub's dignity. If we imagine that it is not possible, then it still seems unintuitive to say that Stub has dignity.

⁴⁴ This makes sense give the way we generally think about vulnerabilities to harm and vulnerabilities to wronging. Recall that in the previous section I claimed that the interests condition is *necessary* for an account of dignity. Nonetheless, I also clarified that cases like harmless trespassing show why not all wrongs are harms. If someone stands in your garden for 5 seconds and then leaves without anyone noticing, most people will agree that they have wronged you, even if they didn't harm you indirectly (e.g., by trampling the flowers). I am therefore arguing that particular kinds of harm *ground* a vulnerability to wronging but they need not explain *all* instances of wronging.

(e.g., b sharp) and started experiencing a note that was not in their interest (e.g., a b flat). At the same time, this seems to be the *only* kind of way in which we could wrong sharp for similar reasons to those we saw above: since Sharp would not be affected by having their limb chopped off, we would not be able to wrong them by chopping off their limb.

While I do not think our intuitions are very clear about the possibility of wronging a being like Sharp, I do think that we are right to include them as a dignity-bearer for two reasons. Firstly, the addition of any further condition that would *exclude* Sharp does not seem warranted. In other words, the question here might be: why stop with modifiable mental states? We might add, for instance, that a being must have the capacity to *conceptualise* those mental states, or, to otherwise have some kind of meta-cognitive awareness of the fact that they are experiencing certain mental states (DeGrazia 2009). But this further requirement does not seem warranted. For starters, it is not clear what such a requirement actually adds to explaining whether they *have* dignity. Whereas the ability to conceptualise mental states might generate vulnerability to *additional* wrongs, it does not seem to be doing any work in actually grounding vulnerability to wronging in the first place. Indeed, the addition of any further conditions seems likely to make an account of dignity objectionably under-inclusive. This is because a wide number of beings who our intuitions indicate *can* be wronged will likely be excluded. For instance, if we were to argue that conscious awareness of alterations in one's mental states were necessary to ground dignity, this would likely exclude many nonhuman animals that lack complex cognitive functions, such as rodents or fish. Some might not share this intuition and claim that I am question-begging. But recall that reflective equilibrium asks us to find coherence between our principles and considered convictions about morality. In the case of the scope of those moral norms, there is rarely a non-circular way of making such an argument (Liao 2010, 169). Instead, we are seeking to find the *most* coherent view that also has the best explanatory power. If you do not share my intuition, then I'd ask you to suspend judgement until later chapters – where I will attempt to draw out the implications of my view and why it improves on other views, even as it includes beings such as fish and rodents.

This brings us to the second reason that the scope ought to include Sharp. The role of any account of dignity is not simply to explain convictions that we already have about

who can and cannot be wronged, but to offer us guidance over which beings can be wronged. In general, our intuitions are clear in cases where beings are *like us* insofar as they have behavioural responses, and they can, on some level, communicate *with us*. A basic communication is that a dog whelps when it is in pain, for instance. While interspecies communication can be much more complicated than this, these kinds of behavioural responses allow us to empathise with other animals to some extent, making our intuitions clearer. In cases where creatures are less like us – particularly non-mammalian creatures – our intuitions are less clear. Now, while Sharp is an imaginary case, they are clearly also a case in which we are uncertain of what to think. A lack of certainty about what our intuitions say about Sharp is not too unsurprising, and so it would be wise to adopt a precautionary principle (Sebo 2022, 150–53), as I discussed above. Knowing that the above two conditions get things more or less intuitively correct, we can assume that if Sharp also fulfils them, then we ought to include them. In such cases, we determine whether the being in question possesses the properties, and on that basis, we can determine whether or not they are a dignity-bearer. Note that in doing so we are not simply *assuming* that the account is correct: we base our judgements on it (a) because it coheres with many of our intuitions which we are certain of (e.g. it includes dogs, infants and human adults, which we are certain ought to be included) and (b) it does better than all other accounts in cohering with those intuitions while explaining why those intuitions are so strong. The latter task is the one which I shall spend the remainder of this chapter, and the next three chapters, defending.

2.5 The Capacity to Value

One immediate advantage for the account I am suggesting is that it seems to include almost all humans, as well as many non-human animals, in the scope of dignity. As we saw in the previous chapter, this is something that many accounts struggle with. The scientific consensus is that a large degree of non-human animals have the kind of consciousness which is ‘informative about what is happening to the body’ (DeGrazia 2009, 201) just as humans do (See also: Dawkins 2006; DeGrazia 1996, chaps 5–7; Duncan 2006; Midgley 1983, chap. 12). Together with the interests condition, the consciousness condition captures the moral relevance of this kind of consciousness. At general level, it seems to get things intuitively correct.

In this section, I want to explain why these two conditions jointly amount to a single capacity to value and why this improves on traditional Sentientist accounts, namely, because it makes better sense of the *range* of ways in which we can wrong bearers of dignity.

First note that on its own, the interests condition does not generate the capacity to value. While the satisfaction of interests might be good for beings who lack conscious experience of modifiable mental states, they cannot be *valued* by those beings, because such beings lack experience of modifiable mental states. Without modifiable experiences, interests lack significance to the individual experiencing them. Similarly, the consciousness condition does not generate the capacity to value independently, because it cannot capture the implicit directedness of modifiable experiences without the first condition. That is, without the interests condition, there is no sense in which experience of X itself contributes to whether or not X is pursued or avoided. That is, *experiencing interests* is what creates positive and negative *evaluative* dispositions towards that which advances or obstructs one's interests (Korsgaard 2022, 245; Shepherd 2018). A being with consciousness but without interests cannot value because that being will lack anything *to* value without these dispositions. Nothing will strike the being as worthy of valuing.⁴⁵

The resulting property of *valenced* sentience is best interpreted as comprising what I have been referring to as a *capacity to value*: to see things as attractive or aversive in some way (Korsgaard 2018, 19–23).⁴⁶ For instance, I valued writing my PhD thesis, just as squirrels value burying their nuts. This attraction/aversion is produced by the combined possession of interests and modifiable experiences. Experiencing the advancement of one's interests makes the thing that advances/obstructs that interest into something attractive/aversive by changing one's disposition towards that thing. On this basis, to exercise a *capacity* to value is to experience things as mattering *to you*, the valuer – those

⁴⁵ As I have explained above, if things cannot be better or worse for a being, it would seem odd to say that they could be wronged. If X only experiences one state (e.g., of constant pain), then I cannot wrong X by for instance damaging X's body, because X will not experience a change in their mental states (Bernstein 1998, 13). It might be thought that this allows a counter example: we cannot wrong X by bringing X into existence. But being brought into existence (or indeed having one's existence ended) is a change in mental states.

⁴⁶ You might object to my use of the term *value* if you believe that only bearers of rational agency can value, where valuing requires reflective endorsement. Nonetheless, this is only a terminological disagreement, so little hangs on it.

things become something to *strive* towards (Nussbaum 2023, chap. 6). This does not mean that the bearers of valenced sentience must have a capacity to grasp the world *as* full of things – no higher order cognition is required to value. Instead, it simply means that a world full of things is a world in which a being with valenced sentience will value some of those things. This is because when our ends are achieved or obstructed, we can be affected in a myriad of different ways. These affects colour our experiences with pain, joy, grief, sound, sight, and a host of different emotions and sensory inputs. Values therefore concern the many ways in which we experience activities, objects and states of affairs calling out to us as to-be-sought (Street 2012, 44).

This interpretation of sentience makes my account more plausible than many other views in animal ethics.⁴⁷ Sentience views are fairly ‘orthodox’ (Garner 2004, 14), and I believe they are largely on the right tracks in determining an account of dignity. However, most accounts often fail to be general enough because they (either implicitly or explicitly and either exclusively or primarily) focus on pleasure and pain, despite sentience being the whole capacity to experience a range of modifiable mental states (Kagan 2019, 13). Indeed, since bearers of sentience experience a wide array of emotions (Balcombe 2009; Berridge and Kringelbach 2008; Dawkins 2006; DeGrazia 2009; Veissier et al. 2009), many accounts of sentience fail to have sufficient explanatory depth to accurately account for the variety of experiences nonhumans have. And yet, many Sentientists often fall into the trap of equating Sentience with the capacity for pleasure and pain. That is, “experience of pleasure and pain” is often ‘what many [Sentientists] ... really mean’ when they use the word “sentience” (Kagan 2019, 15). Singer (1975) is a case in point. This move either wrongfully simplifies what it means to possess sentience, by equating it *with* the capacity for pleasure/pain, or it fails to acknowledge the moral salience of the *range* of affective states which beings fulfilling the consciousness condition can undergo. This echoes a critique which is advanced against basic utilitarianism and hedonism by Plato in the *Philebus*: that pleasure is not the only end which beings can pursue (Bartlett 2008). Secondly, it is not necessarily clear from the outset what it is about the capacity for

⁴⁷ Because of this, my view is consistent with recent work that persuasively argues that sentience and a certain kind of agency – understood as the possession of motivating reasons and intentional action – are co-extensive (Wilcox 2020). See also (Dretske 1999). Sebo defines this broader concept of agency as ‘perceptual agency’ (Sebo 2017), which should be distinguished from the narrower concept of *rational agency* that I discuss in the next chapter.

subjective experience and feeling which is immediately relevant on Sentientist Accounts. In other words, sentience is a particular kind of *phenomenal* consciousness: the ability to have basic mental states such as taste, sight, or smell (Dawkins 2006, 5). But identifying this is only half of the story; it does not explain *why* the possession of consciousness is morally relevant to ground dignity.

In contrast, *valenced* sentience captures the importance that things have *to* the being pursuing them, without reducing their importance to pleasure and pain (Korsgaard 2018, 162–64). It therefore captures the *entirety* of what is relevant about sentience. This goes beyond mere pleasure and pain, because valuing something is about a much greater range and character of experience than the pleasure/pain dichotomy can capture: the whole range of emotions and sense-awareness we and other animals possess. For instance, it might be true to say that I value exercise in and of itself, even if exercising is only habitual for me and often little to do with pleasure or pain (or pursued despite the latter!). Similarly, to characterise most animal's valuing of safety as merely avoiding pain fails to capture the distinct importance of this end driving and supporting the pursuit of other ends, notwithstanding the avoidance of pain.

On top of this, my account will also be explanatorily deeper. It will tell us *why* sentience is important, and it can only do this insofar as it adopts the above interpretation of the meaning of sentience. To pre-empt what I will say in the next sections: valenced sentience allows us to explain why a dignity-bearer has dignity (a direct, deontic moral status), without referring to external values such as pleasure or pain, but to the relational structure of value in and of itself. Rather than simply asserting that some beings have intrinsic worth, as most Naturalistic approaches do (for instance: (Christiano 2008b; Cochrane 2018; Kateb 2011; Tasioulas 2013)), and rather than constructing dignity as a conventional standing (Bird 2021; Killmister 2020), it says that a being has dignity because they have a capacity which makes them the origin and source of other values that exist in the world. This is because valenced sentience has a fundamentally *relational structure*, just like dignity. As we have seen, dignity is a deontic status – it is the universal standing to make directed claims on others (Zylberman 2018, 746). But most accounts contain an explanatory gap. They state that some being has intrinsic value or construct their value in social terms,

without explicitly explaining the connection between the value of dignity bearers and the moral relevance of this value. In the next section, I seek to plug this gap.

However, there are three important clarifications that are worth addressing before I move on. The first is how we can know whether nonhuman animals possess this kind of consciousness. That is, it may be that nonhumans are engaging in activities but that these activities are not represented by *mental states*. In other words, nonhumans might be closer to beings like Sense, who I described in the previous section, than they are to us. This concern is not too worrying, because there is a companion concern in the philosophy of *human* consciousness: we can never truly prove that other humans experience mental states, either. They might be philosophical zombies, who engage in activities with us and behaviours that cause them to appear as if they have mental states, but who do not actually have any mental states, whatsoever (Chalmers 1999; Kirk 1974). Despite the fact that we can never *prove* otherwise, we tend to assume that other humans do have conscious experiences containing genuine mental states though. This is because the best and most parsimonious explanation for others acting in ways that are indicative of mental states is that they actually do have those mental states. We can engage in a similar kind of reasoning to justify the claim that other animals also experience mental states (Andrews 2020; Cochrane 2012, 21): in other words, if it looks, swims and quacks like a duck with mental states, then it's probably a duck with mental states!⁴⁸

A second clarification responds to the worry that not all beings possessing valenced sentience possess the same *kind* of valenced sentience. To be sure, there are likely to be huge variations in the degree, range, and kind of things different beings value, correlating with differences in the kind and degree of consciousness they possess (Lee 2022a). Yet it may be that my account would seem to require the further claim that *at its core* valenced sentience has the same 'subjective character' regardless of which beings possess it (Nagel 1974, 436). For instance, it might seem that I must hold that the valenced sentience possessed by a hamster is of the same fundamental kind as that possessed by an adult human. But this seems counterintuitive: given their vastly different capacities, it will be

⁴⁸ Alternatively, Dale Jamieson (1998) has argued that actual interaction with other beings shows us that those beings have mental states – they are not simply zombies that behave in particular ways, but genuine *others* who we can feel connected to and who we can directly observe are experiencing genuine emotions and sensations. Dennett (1995) makes a similar point.

odd to think that human experiences and hamster experiences are of the same subjective character.

This worry arises from a misunderstanding. Indeed, valenced sentience is likely to involve huge variations in the kinds and types of valuing that different beings engage in, because sentience is multi-dimensional (Birch, Schnell, and Clayton 2020). But this particular point is not problematic – my account of valenced sentience can accommodate this because it is not claiming that what it is *like* to be a human is the same as what it is like to be a bat. What-it-is-likeness is a subjective phenomenon (Nagel 1974). It is going to depend on the particular character of each individual being's phenomenology. However, while the property of valenced sentience does identify a purportedly natural characteristic, arising from a collection of natural traits, the interpretation of its meaning that I have offered above is not a *substantive* claim about subjective phenomenology. It is a claim about the objective *structure* of phenomenological experiences for beings fulfilling the above two conditions (Lee 2022b). To defend the claim that there is an objective structure to certain being's phenomenology we do not need to defend the claim that what it is like to be a being has the same phenomenological character *for all beings* that possess valenced sentience – instead we just need to assume that experience *as a phenomenon* is an objective thing that other beings also experience in structurally similar ways to us (Lee 2022b, 11 (online version)).

For any being to have a subjective experience, there must be some sense in which experience itself is an objective phenomenon. Given this, it is plausible to presume that this objective phenomenon will have similar structural features. To see this, notice first that when we observe that a particular being has valenced sentience we are observing certain natural features about them – such as the functioning of their nervous system, their cognition, and certain correlations with their behavioural characteristics. We can infer from this *that* a particular being has an experience in the sense that I am discussing. They perceive certain things as attractive and aversive. Yet, as we know, we cannot infer any facts about the subjective character of their experience. We can only do this for our own experiences. However, we can use the same *natural* evidence above to develop theories that explains the *structure* of their experience (Lee 2022b) in terms of evaluative and affective characteristics (Shepherd 2018, chap. 6). We can observe that some object

produces positive/negative affects in the nervous system, which the being responds to. We can infer from the activities they engage in what ends they are striving towards are. We can read their body language and the messages they are communicating to us and to one another about what their mental states are. In other words, we can understand the ‘evaluative phenomenal character’ (Shepherd 2018, 38) of their experience – the sense in which the world is *structured* for them (and us) in terms of certain things as to-be-sought and to-be-avoided. The capacity to value can be applied to us and to other creatures, even if the things that appear attractive and aversive to each of us vastly differ, because we can make sense of the variety of nonhuman experiences using the same *structural facts* that we use to make sense of our own.

Finally, note that I put to one side considerations about *potential* possession of the capacity to value. This is not because potentiality is not morally relevant. Instead, it is because, assuming it is morally relevant, its moral relevance will depend on what property grounds the dignity of beings that *actually* possess the relevant capacity. That is, it is the grounding property that is doing the explanatory work – the potential possession of the property is relevant and important if and because the property itself is. Nonetheless, potentiality still has some relevance, due to the line-drawing issues mentioned above: there will be some beings that may possess the potential for the capacity to value, such as embryos (humans’ and other animals’) and beings who are in semi-permanent comas. A robust account of dignity should be able to explain the moral status of these beings. While I will not provide an account of potentiality, my account does have the resources to do so – and it will not face quite so many objections on this front as alternative views. Indeed, definitions of the moral relevance of potentiality are contested,⁴⁹ so reducing the extent to which we rely on them can increase the plausibility of an account of dignity. My account will have a minimal reliance on potentiality, unlike more restrictive accounts of moral status (the most popular being ones which relies on rational agency, as Floris (2021) characterises). On more restrictive accounts, the challenge is to explain why certain beings that it seems should have a (particular kind of) moral status do not have that moral status. For instance, most infants lack rational agency, but they likely have the *potential* for rational agency. On these accounts, potential possession of the relevant property offers a way to explain why

⁴⁹ See Harman (1999, 2003), McMahan (2002, 46–48; 2007), Lizza (2014), Tooley (1972) and Zuolo (2016b)

these beings nonetheless have that (particular kind of) moral status. For the most part, my account avoids relying on potentiality because it is *already* widely inclusive: a wide number of beings that are on the “margins” of others’ views will have a central place as a primary bearer of dignity on my view.

2.6 The Intrinsic Value of The Capacity to Value

We know from chapter 1 that dignity-bearers possess intrinsic value *in virtue of* possessing a particular property or properties which *themselves* have intrinsic value (Floris 2021). Knowing what the capacity to value is, I now argue that this capacity has intrinsic value and can therefore ground dignity.

Most accounts of dignity appear to rely on the *intuitive argument* to justifying intrinsic value and its moral relevance.⁵⁰ This argument effectively claims that a particular property, X, ‘is intrinsically good, but denies that this needs any justification’ (Hurka 1987, 364). Among philosophers defending this argument, the thought is that ‘the best we can do to justify X’s intrinsic value is to explain what X is and, by doing so, pump the intuition that X is non-instrumentally valuable’ (Floris 2021, 1864). In other words, to convince someone that X is intrinsically valuable, all we need to do is explain what X is and why it is important enough to think of as intrinsically valuable. We might apply Moore’s Isolation Test for a particular property X: if, all other things being equal, a being *only* possessed X and no other properties, would we still think that being has intrinsic-final value? If so, then our intuitions are probably right. If not, then we should return to the drawing board – perhaps a different property has intrinsic value. From this, a second step is often made: that because (intuitively) X has intrinsic value, X is morally relevant in a sense that grounds moral status.

In the case of the capacity to value the intuitive argument certainly seems convincing. There are two features which are constitutive of the capacity to value and no others. Moore’s Isolation Test seems to show that if a being just had these features, they could be wronged. Through describing them, I hoped to convey their importance and their relevance to a being’s vulnerability to wronging. In a certain sense, we might claim that it would be unreasonable for anyone to deny that if a being truly does value X, then

⁵⁰ For instance: (Christiano 2008a; Cochrane 2018; Floris 2021; Regan 1983; Singer 1975).

diminishing or obstructing that being's achievement of X would wrong that being. We might disagree about which beings have this capacity and what it means to exercise it, but the intuition that it is important seems something that we would claim all reasonable persons should share. Hence, we might conclude from this that the capacity to value has intrinsic value.

Nonetheless, the intuitive argument produces a somewhat unsatisfactory state of affairs. If I have the intuition that the capacity to value is intrinsically valuable and you do not, then one (or both) of us might seem to be in danger of begging the question. Note that this will be a problem which besets most intuitive-based explanations for the intrinsic value of X.

Fortunately, a second argument – The regress argument – provides us with further justification for the intrinsic value of a property. The regress argument comes from neo-Kantianism.⁵¹ This argument claims that we can know that a particular property has intrinsic value if and because it acts as a source – that is, the *derivative grounds* – of value for other things. This follows because that which is the ultimate source of value for other things will have intrinsic value (Christiano 2008b; Korsgaard 1986, 1996). The idea here is that something has intrinsic value if anything has any value at all. For simplicity, I focus directly on the capacity to value here. I will reject the Kantian version of this argument (which claims that rational agency is the derivative grounds of value) in section 3.4 of chapter 3.

Start with the notion of a particular object, A, being valuable *to* some being. A's value might be derivative of B. For instance, if I like mint choc-chip ice cream, my liking mint choc-chip ice cream might be derived from my liking mint choc-chip. However, B's value might also be derivative of C. My liking mint choc-chip might also be derivative of being someone who enjoys sweet tastes. Hence, we reach a regressive chain of derivatives (A is derived from B, which is derived from C, and so on). At some point in this chain, we should reach something that is itself the *source* of value for the object of value (e.g., mint choc-chip ice cream). That is, we should reach something that explains why A, B, C... etc are all valuable. Its value will not be derivative of the value of anything else; it will not

⁵¹ Throughout, I describe it using somewhat different language to Kant.

be of *extrinsic* value because it will be of *intrinsic* value. I am suggesting that the capacity to value is like this. To put this differently, dignity-bearers are *originators* of derivative value because they possess the intrinsically valuable capacity to value.

This helps to resolve a conflict of intuitions because we can use this argument to develop alternative explanations for the value of other properties which opponents claim have intrinsic value. For instance, if the capacity to value has intrinsic-final value on the grounds that there is both a strong intuitive case in favour of this *and* that the regress argument is successful in support of it, then instead of only trying to convince others why they too should share my intuition, I might also try to offer alternative explanations as to why other properties people *think* have intrinsic-final value, actually only have (a high degree of) extrinsic or instrumental value.⁵² I will develop this strategy in the next chapter to claim that only the capacity to value has intrinsic value.

The regress argument is powerful because it focuses on relations of value, rather than intuitions. But is it successful? There are two main concerns it is worth responding to. First, it has been claimed that the regress argument is a non-sequitur because extrinsic values need not *logically* imply intrinsic ones (Rabinowicz and Rønnow-Rasmussen 2000, 48). Even if true, this charge does not affect the argument that I am presenting. I am not claiming that if A is of extrinsic value this *logically implies* that the capacity to value is intrinsically valuable. Instead, as I am using it, the regress argument establishes a *presupposition* for why the potentially infinite chain of unconditional values should come to an end, so as to achieve a coherent view, by positing that the capacity to value is intrinsically valuable. To explain why, first recall that the fact of something being valuable *to* someone (extrinsically) could mean that it is valuable either as a means or as an end in itself. For instance, I might value food only as a means to sustenance, but I might also value it as end in itself, because I value the condition of eating. No matter what *kind* of value I assign to an object, activity, or state of affairs, we can say that its value comes

⁵² Note that a crucial difference between my approach and the standard Kantian view is salient here. On the standard Kantian view, it is the value of agency which ends the reflective regress – and ending the reflective regress becomes a necessary part of taking oneself to be a creature that must be provided with reasons. However, the difference is that the Kantian capacity for agency is only necessary to *engage* in the kind of reasoning that the regress argument is demanding of us. That is, the regress argument is not claiming that we must be able to reflectively value ourselves to be beings of value. Instead, the regress argument is a tool for reasoning towards a fact that *already* obtains: that the capacity to value has intrinsic value.

from me, due to my capacity to value.⁵³ Hence, extrinsic values can be either instrumentally or finally valuable. Given this, it is the claim that all extrinsic (conditional) values must derive their value from something of intrinsic (unconditional) value which my argument is attempting to establish. With this clarified, notice that while the argument is based on grounding, it is not a *metaphysical* argument about the essential source of all value. That is, I am not claiming that if A is of extrinsic value this *logically implies* that the capacity to value is intrinsically valuable. Instead, the regress argument establishes a *presuppositional grounds* for why the potentially infinite chain of unconditional values should come to an end so as to achieve a coherent ethical system.⁵⁴ Another way to put this is that the *best explanation* for why A, B and C, etc. are all valuable is that they can all ultimately be derived from the capacity to value's intrinsic value. In other words, positing that the capacity to value is intrinsically valuable most coherently and convincingly explains why other values are valuable to valuers.

An alternative line of objection argues that the regress in explanations need not end in the claim that the capacity to value is of intrinsic value (Street 2012; Theunissen 2020). There is a broad version, and a narrow version of this objection. The narrow version holds that I am simply begging the question.⁵⁵ In other words, for the regress argument to give us a reason to believe that the capacity to value is of intrinsic value we must already think that it is of intrinsic value. As such, the regress argument does not really solve the reflective regress since 'one could stop at any point in the regress of questions and merely

⁵³ Some might claim that the value of certain objects or properties does not *only* come from the fact that we value them. For instance, the condition of freedom might be something that is valuable regardless of whether we actually value being free. This is consistent with what I say here, because our valuing something and it having value independent of whether we value it are not mutually exclusive.

⁵⁴ For this distinction see (Miller 2008)

⁵⁵ Bukoski (2018, 219–22) has made a similar charge against the Kantian regress argument in the case of agency. He argues it internally begs the question in favour of the idea that "humanity" (the beings that possess agency) possesses intrinsic value. The thought here is that even if it is true that our valuing should come from somewhere, nothing commits us to thinking that it comes from our agency *in particular* – we must already think that it does in order for this to seem the best explanation. Bukoski's charge seems correct but notice that this doesn't mean we should reject the regress argument *wholesale*. Instead, it means we should have the right level of scepticism about which property ends the reflective regress. In order to avoid begging the question, when we find a property that can end the regress, we ought to maintain a healthy scepticism, as I suggest below. If other candidates come up in our reasoning, we should attempt to work out whether they are more fundamental in the regressive chain. As far as I can tell, only the capacity to value seems capable of doing this explanatory work.

insist upon whatever value is being questioned' (Street 2012, 49). As such, the regress *might* end with the intrinsic value of the capacity to value, but there is nothing to say that it must. This objection will not work because of the nature of the argument, as I am using it: because the kind of grounding that I am after is *presuppositional* we are looking for the *most plausible* property that can end the reflective regress, not just any property. The regress cannot end with a less primitive property than the capacity to value if we simply insist on that alternative property doing the explanatory work, if and because we can achieve a still more basic and therefore deeper explanation. And it cannot end with a still more primitive property (for instance, the genetic basis of the capacity to value) because, as we saw in the first chapter, that concept will not have the kind of value relevant to justifying dignity in the first place. Insofar as we can use the capacity to value to explain the value of other properties, we ought to therefore think of those properties as having derivative value because this achieves the best balance between parsimony and explanatory power.

This brings us to the broad version of the objection that the regress in explanations need not end in the claim that the capacity to value is of *intrinsic* value. This version holds that it is impossible to *know* if there are any intrinsic values at all. A critic of this sort will hold that there *are only* values to valuers, so *all* value is tethered to beings valuing something, even the value of the valuers themselves. So, when we ask, "Should I value myself?" Or "Should the reflective regress end with the intrinsic value of the capacity to value?" we are not asking a question that makes sense. Either we do value ourselves, or we do not. There are no *independent* reasons for valuing anything – no reasons that are not derived from the standpoint of *valuing* that a being adopts – because there are no intrinsic values (Theunissen 2020). To put this differently, this critique is holding that one cannot coherently step back from 'every last one of one's normative judgements at once and try to pose such questions from nowhere' (Street 2012, 52), because if we try to do this, we are still sitting inside *our* perspective on value. Instead, we might argue that the reflective regress ends by our understanding that the regress in questions is not something that makes sense, since we will never settle on an intrinsic value.⁵⁶

⁵⁶ As Theunissen (2020) suggests, we might adopt a *fully* relational argument for how and why we should value one another and ourselves instead. I will not delve into this here.

As I will argue in chapter 4, I think that this perspective on value is broadly correct, and it can help us to overcome the presumption that humans are of *superior* value to nonhumans. However, I do not think that this shows that there are no intrinsic values whatsoever – instead, we should adopt a healthy degree of scepticism and epistemic humility towards the possibility of them. In other words: this broad version of the objection to the regress argument is correct that we cannot know for certain that intrinsic value exists. We must assume that it does. However, this assumption is not only plausible, but I am joined by many other conventional understandings of dignity in making it. Again, the assumption arises because it is a *presupposition* of a plausible and coherent theory of dignity. The fact that this value exists gives us independent reasons to value bearers of it; it grounds their dignity. Without intrinsic value, we cannot achieve this. Second, while it requires us to believe a claim which it is hard to provide a robust argument for, we can adopt the utmost caution in doing so. My approach achieves this because I am aiming to develop the most plausible balance between parsimony and explanatory power. On this basis, I develop a coherent account of dignity that makes sense of our moral relations with one another in tandem with the other animals.

2.7 From Intrinsic Value to Dignity

If the capacity to value has intrinsic value, then it fulfils the criteria I set out in chapter 1 and therefore is a plausible candidate for grounding dignity. We have some basic intuitions in favour of this view, but there are two loose ends that must be addressed in order to justify this account. The first is why we should treat this particular property of intrinsic value as grounding any kind of moral status at all. The second is why the capacity to value grounds a *deontic* moral status in particular.⁵⁷ In this section, I finish the chapter by tying these loose ends together.

Start with the first question: why should having the capacity to value be thought of as morally relevant in the sense that grounds a moral status? The main reason derives from the idea of generic consistency (Gewirth in Pluhar 1995, 244; Bukoski 2018, 214;

⁵⁷ Note that while valenced sentience might vary in degrees, this need not imply that moral status should. That is, variations in the basis will neither necessarily mean variations in intrinsic value nor in moral status. As I discuss in section 3.6, claims of this sort are unnecessary, and add further conceptual baggage that bears explaining.

Korsgaard 1996, 123). In general, we believe that our own values, which are valuable to us, should be *morally* relevant to other moral agents, insofar as we think other moral agents have reasons to protect, promote and respect our values (for instance, since I value ice cream, I believe others should not swat my ice cream onto the floor). If this follows, then generic consistency requires that we should also believe that beings with similar value relevant features to us also have morally relevant values that should motivate us to protect, promote and respect *their* values (if others should not swat my ice cream on the floor, I should not swat theirs).⁵⁸ Because only intrinsically valuable properties can explain why *it is possible* for things to be valuable to some being in the appropriate way, then only intrinsically valuable properties can explain why a being has dignity (Horta 2018). So, we should believe that the intrinsic value of the capacity to value is morally relevant, because it produces consistency with our other beliefs about how *we* would like to be treated.⁵⁹

To illustrate, imagine someone runs off with my dog's ball. If they do this, I am claiming that they wrong my dog. You might say they wrong her because they thwart one of the things she values (her ball). But to explain *why* it is wrong to thwart what she values you must first posit that my dog possesses values *that can be* thwarted. This will ultimately bring us back to the intrinsic value of my dog because – as the regress argument establishes – the things my dog values all derive their value from her intrinsic value. Following this, to explain why it is wrong to steal the ball you must posit that what she values is morally relevant, which means claiming that being wronged directly is tightly connected with whether someone can possess values that can be positively or negatively affected (Horta 2018). The former part of this claim – being wronged – is what it means to have moral status. And the latter part of this claim – possessing values that can be positively or negatively affected – is only possible for a being if that being is the source of the value of at least some valuable things. It follows that since the capacity to value has intrinsic value, it therefore does some work in telling us whether or not a being has a moral status.

All beings that possess this property possess values that are morally relevant, because the capacity to value is a necessary condition for being able to value things, not only for us,

⁵⁸ Generic consistency is therefore much like the golden rule – ‘Do unto others as you would have them do unto you’ (Pluhar 1995, 244).

⁵⁹ I concede that this will not convince a committed moral egoist, but I put objections of this sort to one side.

but for all other beings with this capacity too (Korsgaard 1996, 122-124; 2018, 46-47). This helps to tell us why intrinsic value grounds moral status generally, but it does not tell us why it grounds dignity in particular. This is because dignity is a *deontic* moral status to do with rights and duties. As such, it is not just *any* kind of moral relevance that must be explained, but specifically we must bridge a conceptual gap between the evaluative claim that “The capacity to value has intrinsic value” and the deontic claim that “If R has the capacity to value then they have claimable rights against D, a duty-bearer”. To be sure, most accounts of dignity fail to provide this explanatory link.⁶⁰ That is, while most accounts hold that deontic requirements are based on evaluative notions like the intrinsic value of some property, they neither explain why these deontic requirements *arise from* intrinsic value, nor do they not tell us why those requirements should be *directed*. While most accounts assume this conceptual link, it is not *entailed* by the concept of dignity (Zylberman 2018, 741). For instance, imagine Feinberg’s (1969) Nowsheresville, in which you have duties to particular others, but these are not directed (Zylberman 2018, 742). You might respect the rule that states that you ought not trample your neighbours’ flowers, but you would not do so in Nowsheresville because you respect *your neighbour*. In this case, we have a deontic requirement (not trampling your neighbour’s flowers). However, this requirement bears no relation to the intrinsic value of your neighbour (because the intrinsic value is not connected to the deontic requirements). Instead, your respect of the rule is just a requirement of the rule.

We can resolve this conceptual gap between the evaluative and the deontic by simply collapsing the gap. Because I claimed that things of value to valuers *are* morally relevant, the relational-deontic standing to make claims on others is a *basic* status that is simply constituted by the value-relations that are relevant *to* it (Zylberman 2018, 747). Let me unpack this thought. Many in the rights literature already perceive intrinsic value itself to be deontic: it is thought of as both independently valuable and incommensurable with other values (Anderson 1997; Wood 1999, chap. 4). I adopt the same approach to intrinsic value: it is a value that does not admit of degrees, or comparison, it simply requires us (moral agents) to adopt certain attitudes towards it that are characterised by deontic

⁶⁰ For a discussion, see (Darwall 2013; Wallace 2013; Zylberman 2018)

requirements.⁶¹ To co-opt a phrase from Nozick (1974), these are “side-constraints” which both limit other moral or prudential considerations, and *require* us to act in particular positive ways.⁶² Outside of these constraints, we can act according to free choice. This follows from the argument from generic consistency: beings with moral agency can observe that others engage in the activity of valuing, much like they themselves engage in that same activity (Korsgaard 2018, 141–42). If this requires that we must take others to be bearers of intrinsic value because, like us, their values are of value *to them*, then we can reason to the fact that the proper response to their values is one marked by deontic requirements, because the proper response that we would want others to adopt to *our own* values is also marked by deontic requirements.⁶³ This follows from the deonticity of intrinsic value, because *valuing* is the activity by which we exercise the intrinsically valuable capacity to value in the first place.

As such, the deontic status of dignity does not introduce a second set of claims that supervene on the value of valenced sentience. Rather, when we engage in practical reasoning about the value of the capacity to value we are *already* engaging in practical reasoning about the deontic normativity of this capacity. When we hold that we would like others to treat *our* values in particular ways, and we therefore hold that consistency requires us to treat *others* in those ways, all we are doing is reasoning about values and how we should act towards them. Each beings’ deontic status (their *dignity*) is present in these forms of value because certain forms of value relevance *are* deontic at a primitive

⁶¹ I will not provide a thorough defence of this idea here, because I adopt it from how dignity is deployed in contemporary human rights literature (Griffin 2008; Tasioulas 2013; Waldron 2013). As I argued in chapter 1, we should rely on some conventionalist claims about dignity to develop an account that does not rely on a chain of grounds alone, but that is consistent with contemporary usage. Therein, philosophers, legal theorists and human rights activists do not ordinarily speak about promoting, maximising, or comparing someone’s dignity. Other *usages* of dignity are deployed in this way, but these focuses on the *social senses* of dignity (Killmister 2020), not its metaphysical character. They can therefore be consistent with my view.

⁶² Nozick (1974) of course thought that side-constraints only require us to refrain from acting in particular ways. I shall explain why they generate positively claimable requirements in chapter 5.

⁶³ To be clear, our requirement to treat others in these ways does not *derive* from generic consistency – as with the regress argument, generic consistency is simply a tool of reasoning that allows us to settle on the truth of this fact. Instead, the reason that we ought to treat others in these ways derives from the deontic nature of their intrinsic value (as an incommensurable value).

level (Zylberman 2021).⁶⁴ In other words, it is not that you have intrinsic value, *and* you have dignity. Instead, your dignity *is* your intrinsic value (and vice versa!).

It follows that you have *directed* rights against specific others because the very notion of intrinsic value grounding your dignity is *deontic* in such a way that will already constitute the right-duty correlate (Zylberman 2018, 743). Notice that this does not require us to say that *everything* is connected with a rights-claim in some way. Recall that deontic relations are just one *kind* of morally relevant factor. Those things of deontic relevance will be one some of those things that are of value. Moral agents must *relate* to what dignity-bearers value in particular ways because if they value then at least some of what they value has a particular kind of *deontic* moral relevance.⁶⁵

2.8 Conclusion

I want to conclude this chapter by explaining why the account I have offered overcomes the Scope Challenge. Recall that this requires us to do two things to provide a coherent and non-arbitrary justification for why a particular being has dignity, each of which my account based on *the capacity to value* achieves:

1. The natural grounding condition: My account is grounded in a natural property that I have argued is of intrinsic value. That property arises from two jointly necessary and sufficient conditions – the possession of interests and consciousness – that I have argued jointly amount to valenced sentience, comprising a capacity to value.
2. The intrinsic value condition: We know that the capacity to value is intrinsically valuable because we not only have an intuitive sense of this, but it also coherently explains why other properties, states-of-affair and entities are of value to bearers of it.

My account therefore improves on traditional accounts of *human* dignity because it does not arbitrarily exclude certain beings but instead adopts a nuanced approach to questions

⁶⁴ Zylberman makes a similar point but relies on the concept of personhood to do so, instead.

⁶⁵ I will expand on this in chapters 4 and 5, where I argue that this generates an obligation to reasonably consider other's values in particular ways whilst holding the correct attitudes towards them as separate sites of value.

of scope (section 2.2), and coherently matches with our considered convictions (sections 2.3 – 2.5), all while explaining in virtue of *what* a being has dignity (sections 2.6 and 2.7) – the intrinsic value of the capacity to value. Nonetheless, I contend that it is also consistent with “conventionalist” accounts of dignity insofar as it can plausibly retain a commitment to three principles at the core of contemporary theorising over dignity: that dignity bearers possess dignity to an equal degree, that they have the same intrinsic worth, and that this produces direct and claimable rights. To explain why, the rights and duties generated by this understanding of dignity and value must be characterised, but if what I have argued follows, then this approach will be able to draw on the values that constitute each of our capacities to value to do so. After defending this account of the basis of dignity in chapter 3, I turn to this task in chapters 4 and 5.

Monism about the Basis of Dignity

3.1 Introduction

Living beings possess a wide number of different capacities, but I have argued that only *one* of these capacities is the basis of dignity. Why should we exclude the possibility that other properties might *also* ground a being's deontic moral status? And might further properties enhance or affect a being's moral status? Should the entities my account excludes be excluded? Concerns of this sort might encourage us to adopt an account of dignity according to which dignity has not one but several bases, for two reasons.

First, there is a range of potential candidates that it might be argued my approach to dignity misses out, and it might be thought that we need not make the stronger claim that such beings *lack* dignity. For instance, Vancouver's Lighthouse Park comprises an area of forest with several hundred ancient and immensely large Douglas Fir and Red Cedar trees. Many hold that non-sentient entities like these have dignity (Agar 2001; Meyer 2002; Taylor 1986; G. Varner 1998; Warren 1997, chap. 2). To accommodate such claims, it might be thought that possessing only one of a select number of valuable capacities could be thought of as *sufficient* for possessing dignity (Gilbert 2023a, chap. 2, 2023b). As such, there would be room to argue that trees and other organic entities *might* possess dignity, but if they do it would simply be of a different kind to that which bearers of sentience possess. Since this specific challenge concerns the organic entities my account excludes, call this *The Biocentric Challenge*. Note however that it is consistent with a broader pluralism, which takes several different properties to ground dignity.

Second, many people seem to find the morally relevant distinction between persons (those who possess rational agency) and nonpersons to be very intuitive – but my approach appears to do away with that distinction. Persons are generally considered to not only have a *higher* but a distinct *kind* of dignity that non-persons do not have, even if non-persons possess *a* moral status (Buchanan 2009; Nagel in Dombrowski 1997; Floris 2021; Kagan 2019; Killoren and Streiffer 2022; Warren 1997). Adopting an approach

according to which dignity has several bases would vindicate this conventional presumption. In doing so, it might seem to allow us to avoid certain counterintuitive implications (Kagan 2019; Vallentyne 2005). For instance, if faced with the choice between harming a dog or a human when we cannot do otherwise, an account of dignity that only relied on a *single* property may seem committed to claiming that we should flip a coin (Floris 2019, 212–14). Call this *the Pluralist Challenge*.

In this chapter, I seek to defend a *monistic* account of dignity that responds to these two worries. As such, I will argue that there is only one kind of dignity – a dignity grounded in the capacity to value. I’ll start by discussing the motivations for pluralism about the basis of dignity in further depth (section 3.2). I then argue that monism actually fares better at explaining dignity than pluralism.⁶⁶

In sections 3.3, 3.4 & 3.5, I argue that we can get sufficient mileage out of an account of *value* that relies on the intrinsic value of the capacity to value *alone*. The capacity to value can explain why other entities, and other capacities are valuable, without any losses in explanatory power. On the one hand, it is plausible to think of the value of non-sentient entities – including plants and works of art – in terms of their value *to* beings with the property of valenced sentience (section 3.3). Doing so does not mean diminishing the moral importance or value of such entities, it simply means understanding that value in *extrinsic* terms. On the other hand, we can still account for the idea that particular capacities (other than the capacity to value) are valuable by relying on the idea that they too are valuable *to* valuers as well (section 3.4). For instance, rational agency is valuable because it is valuable *to rational agents* in allowing them to better achieve the things they value. As I show, this even accounts for the Kantian view that moral agency is necessary to engage in moral legislation in the first place (section 3.5). If such an explanation follows, I argue that pluralism appears redundant.

Subsequently, section 3.6 argues that monism also improves on pluralism at the level of moral implications, since it fully accounts for the range of ways in which beings can be wronged and can either accommodate or assuage pluralist concerns in advantageous ways. Insofar as other entities and/or capacities have special importance, they ought to be given

⁶⁶ I focus on two forms of pluralist account (reverence for plant life and respect for agency), but my arguments apply *mutatis mutandis* to all pluralist accounts.

special consideration – but this is only because they have value to beings that do have dignity, the bearers of the capacity to value. Pluralism therefore has no explanatory advantage over monism – and even introduces theoretical concerns that a monistic view can avoid – so we should prefer a monistic view of dignity grounded in the capacity to value.

This disagreement matters because it has implications for how we ought to treat bearers of dignity. Traditionally, theories distinguish between persons and nonpersons – justifying rights for persons (those who have the capacity for rational agency), and *mere* interest consideration for nonpersons. However, if monism about dignity is true, it means that the obligations we have to animals and to humans are not *distinct*. Instead, all deontic wrongings can be explained using the same concept, the capacity to value. Consequently, nonhuman animals ought to feature more directly in the full range of theories of justice; humans with profound cognitive disabilities have the same kind of moral status as all other humans; and we ought to prioritise animal interests more often than ordinarily thought. If there is only a single basis of dignity, then nonhuman animals matter morally for the same reason that we do: because they have a capacity to value.

3.2 The Challenge to Monism

An account of dignity aims to help explain the range of ways in which dignity-bearers can be wronged, consistent with relevant differences between bearers of dignity. Monism and pluralism aim to do this in ways that produce very different implications for moral theorising.

On the monistic view we will *interpret* the relevant intrinsically valuable property in a different way depending on the capacities of the dignity-bearers in question, as in Singer's (1993, 22) Equal Consideration of Interests Principle. According to this principle, we must consider the same property *equally* (possession of interests, for Singer) but interpret it in different ways depending on what the interests are. Thus, on monism, dignity-bearers have the same *kind* of moral status because they share the same *kind* of underlying property. For instance, causing a dog, a human and a shrimp needless pain results in the same *kind* (if not degree) of wrong, despite their varying capacities, because all three of these beings possess valenced sentience. This not only obtains *inter-species* but *intra-*

species, too. If I have a broken leg, and you do not, then there are certain specific ways in which you can wrong me in virtue of the fact that I have a broken leg. The reason why is that all of these involve undermining the particular being's ends – what they value with their capacity to value.

In contrast, the pluralist adopts the view that there are multiple criteria for dignity. Importantly, a pluralist about the basis of dignity *might* argue that several different properties generate the *same* kind of moral status. In other words, they might think that dignity could be grounded using several different properties. I want to put this view to one side.⁶⁷ The significant form of pluralism that I am interested in here is the view that a single *further* intrinsically valuable property (on top of e.g., valenced sentience) in fact makes a difference to the *kind* of moral status that a being has, and so makes a difference to *all* kinds of treatment they ought (not) to receive. According to this view, if A has sentience and B has both sentience and agency, then the pluralist will hold that B's moral status is fundamentally *different* to A's.⁶⁸ To be sure, this appears to be the kind of claim that many pluralists in fact mean to defend when they adopt pluralism: different kinds of moral status are thought to correlate with different kinds of intrinsically valuable properties (Buchanan 2009; Kagan 2019, 116; Warren 1997). While monism claims that all variations in kind can be explained by the interpretation of the *same* property, on pluralism different beings have fundamentally different moral statuses depending on how many and what intrinsically valuable properties they possess. Of course, some interpretation of the same property is still required to accommodate differences between those who have the same kind of moral status. For example, on the pluralist view, the wrong of torturing a dog is entirely different *in kind* from torturing a human, but while torturing two humans is wrong in the same way, the nuances of why and how it is wrong may differ depending on the differences between the two humans, for instance, based on the way torture is carried out, the particular features of the individual, or the severity of the torture. Monism and Pluralism therefore disagree on two fronts: first, over how to

⁶⁷ Given that the capacities that form the basis of dignity give rise to the moral obligations according to which we ought to be treated, and those fundamental obligations form our basic dignity, this form of pluralism already faces challenges in maintaining coherence between the grounds of dignity and the normative implications of the possession of dignity.

⁶⁸ This follows from the arguments I discussed in section 2.6 – if moral status captures the moral relevance of some intrinsic value, then moral relevance (and therefore moral status) will differ in kind depending on what the intrinsic value is.

account for differences in the capacities dignity-bearers possess and second, over whether there is more than one kind of moral status. These track disagreement on a third front: whether more than one property has intrinsic value.

There are two directions from which we might reach Pluralism. The first arises from a concern about the *under-inclusiveness* of an account that focuses only on valenced sentience. Many who advance this challenge hold the intuition that non-sentient organic entities – such as the ancient trees I mentioned in the introduction – have a dignity. Pluralism would be able to accommodate this since it would hold that possessing only one of a select number of valuable properties is *sufficient* for possessing dignity (Gilabert 2023b).⁶⁹ This would make the burden of justifying why some beings possess dignity much easier, since if a particular being lacked a particular capacity, we might rely on an alternative capacity they actually possess to ground their dignity (Gilabert 2023b). It is of course worth noticing that my account of dignity based on valenced sentience already addresses *most* worries about inclusivity, because my account *already* includes those beings whose exclusion is ordinarily protested against. However, non-sentient beings are still excluded, so I shall focus only on these beings in addressing the *under-inclusiveness* concern motivating pluralism.

Call this the Biocentric Challenge and call an account that explains the intuition that non-sentient beings have dignity/moral status a *biocentric* account (Agar 2001; Meyer 2002; Taylor 1986; G. Varner 1998; Warren 1997, chap. 2). According to biocentrism, it is the *mere* position of interests that can ground a being’s dignity, since merely having some kind of welfare is thought to be intrinsically valuable. This would overcome concerns about under-inclusiveness, by simply holding that the possession of interests *alone* can ground a being’s dignity.

However, to do that, we would have to find a good way to make sense of *how* a “natural” end can be good or bad for a non-sentient entity and therefore be classed as an interest. Many of the accounts available in the literature fail to plausibly explain this (Basl 2019; Basl and Sandler 2013b; McShane 2019). Nonetheless, I want to focus on one of the strongest available views – what is known as the “etiological” account – for the purposes

⁶⁹ Gilabert does not defend the position that trees have dignity, but his account could be adapted to do so.

of explaining why it too will fail to justify biocentrism, and therefore to eventually show why the Biocentric Challenge fails.

Explaining how plants have interests involves making a plausible distinction between functioning and malfunctioning, or between ‘parts and traits doing what they’re supposed to do and doing something else’ (McShane 2019; Neander 1991b, 173–74). This is because we can in general surmise what the ends of a particular entity often are, but we also need to know how to fit this into a broader picture of its functioning, that is, how its parts/traits work to help it achieve that end in a non-arbitrary or non-derivative sense. For it to be *good for* a plant that it achieves its ends, there needs to be something that the plant’s parts are *supposed* to do.⁷⁰ The best available account in the literature that answers this question holds that a plants parts/traits are doing what they’re supposed to do, and therefore contributing to the plant’s welfare, if the thing that they are doing is something that has been selected for in the plants history, e.g. by the process of evolution and natural selection. Put formally,

X is good for T if it has been selected for in X’s selection history.

This is known as the ‘etiologial’ account of the welfare of organic entities. On the etiologial account, the question of *how* something can be good or bad for a being is answered by focusing on the *selection history* of the entity in question, that is, its *aetiology*, (Basl 2019; Basl and Sandler 2013a; Godfrey-Smith 1994; Millikan 1989; Neander 1991a). To illustrate, one of a cactus’ ends is survival. Sharp spines therefore perform the function of warding off animals which try to eat it because a history of natural selection has bred it to do so to fulfil the end of survival. Teleology is embedded in this understanding of the selection of the spines because ‘selection is a mindless process but also a discriminating one; the selection for some traits relative to others is the (or a) primary driver of evolution’ (Basl 2019, 72). Accordingly, an etiologial view of function highlights that there are particular roles which an entity’s traits are *supposed* to fulfil, and we know

⁷⁰ A separate reason why we need a theory of non-sentient living welfare is that we need to know why it is that the entity in question, T, which is benefited by the achievement of the end, as opposed to its constitutive parts (Basl 2019, 78; Sumner 1995, 787–89). In other words, why is it “me” as opposed to “my heart” which has a welfare? This so-called *Problem of Collectives* (Basl 2019, chap. 4), becomes especially important if the scope of dignity is to include all living organisms. As I will not defend an account of Biocentrism, it is not necessary to offer a response to this problem.

they are supposed to do that because natural selection has selected them to fulfil that role based on the plant's ends of survival and reproduction (Neander 1991a, 174). This allows us to solve the puzzle of how ends are good/bad for an entity because it explains both what the proper functions of that entity's parts are relative to its selection history, and how they contribute to the entity's overall ends, e.g., of surviving and reproducing. In other words, the plants parts/traits achieving their proper function helps the plant achieve its ends *because* these have been selected for, and this explains why the ends are good for the plant. It is good for a plant that it has moist soil, because the roots have the proper function of absorbing moisture. While this account shares some of the theoretical problems alternative accounts also face, it is the most plausible among alternatives,⁷¹ despite these challenges.⁷² I will not defend it here, because my concern is with eventually demonstrating why the Biocentric Challenge does not in fact succeed. Focusing on the strongest available account is the way to achieve that.

⁷¹ Various alternative and less plausible accounts have been offered. An early attempt was the notion of a *causal role* (X is good for T if it contributes to the capacity of one of T's contained systems) (Amundson and Lauder 1994; Cummins 1975). This account fails to get Biocentrism of the ground, even if it can appropriately explain function ascriptions, because it fails to distinguish between *a* function and *the* function of an entity (McShane 2019). For a further critique of these accounts see (Ehring 1985). A later attempt, similar to the etiological account in its focus on selection, was the propensity account (X is good for T if it increases an T's propensity to survive and reproduce) (Bigelow and Pargetter 1987). Such accounts have been critiqued on the grounds that they implicitly rely on aetiology or fail to adequately explain proper functions in all cases (Godfrey-Smith 1994, 350–56; Mitchell 1993; Neander 1991b, 463–66). Finally, *autopoietic* accounts (X is good for T if it helps T's self-maintenance) have been defended more recently (Holm 2012, 2017; Mossio and Bich 2017). These accounts inherit similar problems to etiological accounts, if not stronger versions of them (Basl 2012), while arguably fairing worse at addressing the problem of collectives (Dussault 2019).

⁷² The main challenge it faces is that it can appear highly counterintuitive (Holm 2017; G. Varner 1998, 70), because a trait might be *good for* an entity even though it hasn't been *selected for*, or bad for an entity even though it *has* been selected for (McShane 2019). Imagine, for instance, that a fly trap suddenly develops a retractable stem which can launch out to catch flies unexpectedly. Conjecture about whether the fly trap stem is "good for" the fly trap is impossible under the etiological account, because it requires a notion of the proper function of the fly trap stem as a trait, but this requires a previous selection history to draw on – but there is no selection history for this accidental function, even though it seems advantageous. This seems counterintuitive because an interest is supposed to identify those things which are advantages or disadvantages for a particular entity's ends (insofar as they are good or bad for an entity). So, if the etiological account of interests cannot make sense of all the things which are advantages or disadvantages, it may not be a good account of interests. Note that while it faces these objections, the etiological account is still the most plausible explanation, among the available alternatives, of the claim that non-sentient living entities have interests (Basl 2019, chap. 3; McShane 2019).

The second direction from which we might arrive at pluralism is from concerns about the supposed inadequacy of monist accounts. Call this the Pluralist Challenge. On the one hand, this challenge contends that monism fails because it implies that differences between (most) humans and nonhumans are not morally significant. On the other hand, it might also contend that monism is incapable of dealing with all cases of moral conflict (Warren 1997, 172).

The first of these concerns conflicts with a strong intuition which many have that there is a ‘morally momentous distinction’ (Buchanan 2009, 36) between humans and nonhumans (Arneson 1999; Christiano 2008a; Kagan 2019; Liao 2010; Warren 1997). Pluralism acknowledges this worry, consistent with the concern about inclusivity I outlined above. That is, it would be easy to explain this distinction according to a less inclusive view of dignity (e.g., Kant 1997; Kateb 2011). According to the traditional Kantian view, for instance, *only* rational agency grounds dignity and only typical persons therefore have dignity (beings who possess rational agency), thus justifying the distinction between humans and animals by denying animals *any* moral status. Since this view is now accepted as widely implausible, pluralism instead holds that persons have a different and higher worth than nonpersons do not, and that this is grounded in their possession of further intrinsically valuable properties, standardly grounding *respect* towards persons, as opposed to mere interest *consideration* towards non-persons (Nozick in Dombrowski 1997, chap. 6; Jaworska 2007; Killoren and Streiffer 2022). This generally results in a (purportedly) morally justified inequality of treatment: while persons receive certain rights and privileges, nonpersons do not.

The second concern focuses on the contention that a monistic view would require us ‘to weigh equally the strong interests of all sentient beings’ (Warren 1997, 78). Pluralists claim that since monism would lead us to hold that all dignity-bearers have the same moral status, we cannot avoid certain particularly counterintuitive conclusions (Kagan 2019, chap. 3; Vallentyne 2005). For instance, ploughing a field involves causing harm and death to numerous nonhuman animals. As such, pluralists contend that monists would be committed to arguing that we should not plough the field. So, assuming it is intuitively permissible to plough the field, monism appears implausible (Warren 1997, 79). Similarly, you might think that if faced with the choice between harming a dog or a human when

we cannot do otherwise, it would be problematic to conclude that we should flip a coin (Floris 2019, 214–15). Many have the intuition here that we *ought* to harm the dog, but monism seems to commit us to the coin-flipping conclusion. Various examples of this sort produce a *reductio ad absurdum* of monism. In contrast, versions of pluralism do not result in these kinds of conclusions if and because they claim that the human has a greater worth (and therefore a superior kind of moral status) as a result of possessing a greater number of intrinsically valuable capacities. Since humans must prioritise their interests over other animals from time to time, and since many have the intuition that *not* prioritising humans would be problematic (Warren 1997, 84), the pluralist holds that there must be more than one grounds of moral status to explain why some being's interests matter more than others. Proponents of this standard pluralist position might either claim that animals lack dignity even if they have a separate *kind* of moral status, or they might claim that while animals have dignity, *human* dignity is of a superior kind, sitting on an egalitarian 'plateau' above the other animals (Dworkin 1983). My arguments apply regardless of one's position on this front.

Pluralism about the basis of dignity has wide appeal, but I argue that this is mistaken – we ought to prefer monism because it achieves a better balance between parsimony and explanatory power. After explaining why, I argue that monism not only produces intuitively appealing implications of its own but can account for and assuage the concerns above. If, as I argue, it is only the capacity to value which has intrinsic value and is therefore the basis of your dignity, then the rest will be down to that property to explain how and why other properties have value, and why you can be wronged. In other words, the capacity to value can do explanatory work for us in ways that are both simpler and more intuitive – in contrast, Pluralism produces unnecessary complexity, while leaving questions unanswered that Monism does not.

To be clear, this critique of Pluralism cannot be reduced merely to the claim that Monism is more parsimonious. To be sure, the notion of parsimony should be challenged when used as a blunt argumentative tool. However, we can sharpen it up by clarifying that what makes my monistic account of dignity more plausible is that it achieves a better *balance* between explanatory power and parsimony while resulting in intuitively satisfactory conclusions. To clarify how it does this, we need to make a distinction between *primitive*

and *derivative* concepts (Schaffer 2015). A primitive concept is a foundational idea that cannot be explained in terms of any further concepts other than itself. Positing that a primitive concept – such as ‘the capacity to value has intrinsic value’ - exists entails a new conceptual commitment, but also a new conceptual cost, because we must coherently justify the existence and fundamental necessity of the concept within an overall theory. In contrast, derivative concepts ‘cost nothing further, beyond the cost [*already*] incurred for positing their fundamental grounds’ (Schaffer 2015, 648). Not only, but derivative concepts also contribute substantially to the ‘fruitfulness’ of the theory (Schaffer 2015, 651): they further define and elaborate on the fundamental primitive concept(s). It follows that if a primitive concept (the capacity to value) can do the explanatory work, a new primitive concept (extra bases of moral status/dignity) will be redundant.

Pluralism suggests that a higher number of intrinsic values exist than monism does, so pluralism comes not only with greater conceptual commitments, but with great conceptual costs too. I will argue below that monism can explain the value of other capacities *extrinsically*, by deriving their value from the capacity to value: our capacities are valuable because they are valuable *to us*. If this alternative explanation is plausible, we end up with strong reasons to prefer monism.

In sections 3.3 to 3.5, I focus on the first part of my argument: I will argue that my monist account of dignity (grounded in valenced sentience) has sufficient explanatory power to account for the value of other properties, while also being more parsimonious than pluralism. To show this, I focus specifically on pluralist accounts relying on biocentrism and/or agency, but my arguments apply *mutatis mutandis* to other candidate bases of dignity. The second part, which I focus on in section 3.6, will involve showing that monism holds up to scrutiny at the level of moral implications, too.

3.3 Extrinsic Value

If the capacity to value has intrinsic value, then the value of other properties can be explained extrinsically, through their derivative relation *to* the capacity to value. An extrinsically valuable property might also have instrumental or final value. If it possesses instrumental value, it is valuable as a means to a particular end. In contrast, a property might be valuable extrinsically, but still possess *final* value, because it is valued for its own

sake, in and of itself. This understanding of extrinsic value is explored by a variety of philosophers (Kagan 1998; Korsgaard 1983; O'Neill 1992; Rønnow-Rasmussen 2015; Tenen 2019) and opens up the prospect that the capacity to value can do a lot more explanatory work for us than we might otherwise think.

Start with the simpler case of *extrinsic-instrumental* value. We tend to think of the value of most of the capacities that we and other creatures possess as being valuable in this sense. In general, we do not think much of most capacities beyond their prudential advantage. For instance, the capacity to run fast might be (instrumentally) very useful for me, but this value is still relative to my possession of it. The ability to run very fast is thus valuable prudentially, insofar as it helps a creature to achieve certain other ends such as avoiding predators. So, we ordinarily think that the value of a capacity is relative to and dependent on the individual who possesses it, allowing them to achieve their other ends. Similarly, we can think of the value of many other properties, objects, and entities in this way. Artifacts such as medicines have extrinsic-instrumental value, for instance, in promoting, protecting, and improving our health. Natural entities such as trees might have extrinsic-instrumental value too, in simply promoting a habitable environment, providing aesthetic pleasure, and cleaning the air. And it is plausible to think that all of these things, and other similar properties, are valuable *because* we value them, whether implicitly or explicitly, for the achievement of our other ends.

The important thing to notice is that a particular property might have extrinsic-instrumental value in this way but nonetheless be of *weighty* moral value. That is, we should not fall into the trap of equating everything of moral importance with being of intrinsic (or even final) value. Take, for instance, a good education. While this is something which some people might value in a final sense, insofar as they simply value the act of learning in and of itself, it is not something which has intrinsic value, a value that obtains regardless of the value we assign to it. Its good is derived entirely from the things that it can do for us, or its value to us. But a good education is still hugely morally important – without a good education the possibility that a person can lead a successful life is radically diminished, among other things. A similar thing is true about many capacities. While they are not of intrinsic value, they are nonetheless still of weighty value in providing us the ability to achieve a flourishing life. Finally, most parts of the environment seem to have

significant moral relevance insofar as they are important for the achievement of our ends and the ends of other animals, in a variety of different ways (Cochrane 2012, 162–64).

Of course, the objection might be that this is inadequate to address the following kind of intuitions: that the exercise of some capacities is valuable in and of itself (such as agency); that some organic entities have a special value worthy of even deeper moral considerations (such as ancient trees); or that some artifacts have immense aesthetic, cultural, sentimental, symbolic and historical significance that the instrumental explanation cannot capture (such as the Mona Lisa).

On my account, we can account for the value of these entities using the concept of *extrinsic-final* value. I'll focus mainly on organic entities for now, before focusing on rational agency below. I put artifacts to one side here, but a similar account of value can be applied to them (making necessary alternations).⁷³ Recall that the version of biocentrism I outlined above holds that non-sentient organic entities have a dignity that is grounded in the intrinsic value of possessing a welfare alone (Agar 2001). In what follows, I do not deny that such entities might have *a* moral status, but that moral status is not dignity, because organic entities do not have intrinsic value. Instead, if they have a moral status, then it is based on their extrinsic-final value. Note two things. First, this is not entirely inconsistent with biocentrism. As I will explain, it might ground a form of biocentrism that takes derivative as opposed to intrinsic reasons to ground the moral status of non-sentient organic entities. Second, this is not the only way to object to a biocentrism based on intrinsic value. An alternative route would be to explain why non-sentient organic entities do not, in fact, have a welfare at all. While this is a plausible strategy, I will not focus on it here. Not only is this second strategy weaker,⁷⁴ but the first strategy will also help to demonstrate the explanatory power of my account.

If an organic entity has extrinsic-final value, then this means that it is valuable *for its own sake*, while also *deriving* that value from the capacities to value of dignity-bearers. To make this argument successfully we need a way of distinguishing between final and non-final

⁷³ See: (Kagan 1998; Korsgaard 1983; Rabinowicz and Rønnow-Rasmussen 2000; Tenen 2019; Tucker 2016)

⁷⁴ If a successful theory of the welfare of organic entities is provided, one which overcomes any critiques of biocentrism, then the first argument will still follow.

extrinsic valuing (Tenen 2022). This is because the obvious objection to the claim that any object or entity does indeed have final value is that the object or entity is in fact valuable *instrumentally* for the achievement of some end which does (more clearly) have final value such as pleasure, or survival. For instance, if someone were to hold that the great barrier reef is valuable extrinsic-finally, they would have to explain why it is not, in fact, simply valuable *because* it helps to promote a healthy and robust eco system for the sentient beings living there.

To distinguish final and non-final values, we simply need to rely on the idea that we have reasons to respond in value-related ways to some objects, but not on account of a desire that the object/entity casually or constitutively contributes towards (Kagan 1998; Tenen 2022). Let me unpack this. To value some entity for reasons that are independent of the desires that the entity contributes towards is to focus ‘centrally on the entity, admiring or appreciating certain of its features, without an occurrent desire for something regarding it to be the case’ (Tenen 2019, 486). This is by no means inconsistent with our possessing an active desire towards the entity, but it is distinct because this form of attention does not ‘involve an interest in doing anything regarding the entity’ (Tenen 2019, 486). To illustrate, turn again to consider the ancient red cedar trees in Vancouver’s Lighthouse Park. I might have certain active interests regarding the trees – to get some fresh air from them, or to experience some moments of joy by being in their presence. But to achieve a full account of their value, it seems more accurate to say that the kind of valuing I associate with them is *independent of* what I want/need to get from these things. Instead, I might simply admire and appreciate their beauty, age, size, and complexity – and when I do so, I appreciate and admire these things *for their own sake*. When we engage in these forms of valuing, we respond in certain value-related ways – ‘emotional responses, certain beliefs or judgements about the entity, certain actions, and so on’ – however these do not involve a desire that the entity ‘contribute to something else’, as instrumental valuing requires (Tenen 2022, 15 (online version)).⁷⁵

⁷⁵ You might doubt that creatures other than humans can engage in this form of valuing. But notice that the structure of my account shows that it is plausible to think that all nonhumans engage in at least one kind of extrinsic-final valuing: valuing survival and reproduction as an end, in and of itself. I think it is likely that nonhumans value a wide number of other things in a final sense. I cannot argue for this here, but it will be obvious to most people who have spent time

As my example above demonstrated, this account of extrinsic final value can be applied to non-sentient organic entities (Green 1996; O’Neill 1992; Tenen 2020). And, as before, it should be noted that this need not diminish the *moral importance* of the value of these organic entities, and other entities of extrinsic value, because we can develop a comprehensive account of environmental ethics off of the back of this (O’Neill 1992). This will not merely rely on the moral relevance of the extrinsic-instrumental value of such entities, but instead argue that entities of extrinsic-final value have sufficient moral relevance to be awarded a relational and indirect moral status of their own, even if they lack a dignity (Behrens 2014; Green 1996; Hourdequin and Wong 2005; Samuelsson 2010; Tenen 2020). I will not develop this view here, but it is worth noting why it is compatible with my account of dignity. This kind of moral status is not a *deontic* one, because it is not based on intrinsic value. So, claiming that a non-sentient organic entity has an indirect moral status does not mean assigning them a dignity. However, it does mean that they will be owed some kind of *second order* consideration in and of themselves. This is unique insofar as the consideration will be about the value-related responses that it is appropriate to have towards the entity. If the entity attains its moral status through a relation with dignity-bearers then we might explain why it has that moral status vis-à-vis that relation, but we need not explain why we should be disposed in particular ways towards the entity vis-à-vis the dignity-bearer’s own attitudes. Instead, we can focus on the features of the entity that merit it coming to have extrinsic-final value to dignity-bearers in the first place. To illustrate: if ancient red cedars are valuable extrinsically in virtue of the features that give rise to them being valued in those ways (aesthetic characteristics, age, size, location, etc), then we ought in general to treat them in ways that do not undermine those features. We should not cut them down, or vandalise the trees, for instance, because to do so would undermine the extrinsic-final value of the trees.

However, it is important to note that the reasons we have to treat an entity such as a plant in these particular ways are still derivative of the reasons we have to treat dignity-bearers in the ways we should treat them. Trees only have extrinsic-final value *because* we (humans, and other animals) value them in this way. Hence, the view I am endorsing requires us to hold that the moral reasons we have to preserve natural entities and processes are *pro tanto*

with a companion animal – most cats, for instance, clearly value the activity of hunting or engaging in hunt-like play, for its own sake.

reasons, that might be overridden by further considerations about the interests of sentient beings (Faria and Paez 2019; Green 1996; Tenen 2020).

Given this implication, it is important to compare this extrinsic way of understanding the value of organic entities, with the claim that they have intrinsic value. Why should we adopt the former rather than the latter? Primarily because it is not clear that the biocentrist can offer us an equally robust explanation for why we should think that teleological interests have intrinsic value.⁷⁶ On the one hand, an argument for the intrinsic value of teleological interests is likely to rely on intuitions *alone*, because the regress argument is unsuccessful in the case of teleological interests. First, it is not obvious that it is appropriate to talk about *value* without experience of modifiable mental states in the first place (see section 2.5). Second, relying merely on a beings' teleological interests will not have sufficient explanatory power to account for the range of things we value and the ways in which we value them. For instance, what I value often goes against what is in my interest, and vice versa. Because of this, we can explain why our teleological interests are valuable by using the capacity to value, but it is not obvious that we can explain why the capacity to value is valuable by relying on our teleological interests. The regress argument therefore counts against the claim that teleological interests have intrinsic value.

On the other hand, if the biocentrist must therefore resort to intuitions, then this would at most provide only a weak case in favour of the biocentric view. To see this, imagine that there is a world with only a single entity on it – an oak tree. The oak possesses teleological interests, and so has a welfare, but lacks modifiable mental states, so it does not have a capacity to value. Does such a world possess independent (intrinsic) value? People are likely to have different intuitions in response to this question. Some might hold that it does, and some might argue that it does not. On either view, the world certainly seems to contain something of *importance* – but it is not clear it is of intrinsic value. Given this, we should assess which view seems to have the more plausible claim. According to my account, on which the oak tree is of extrinsic-final or extrinsic-

⁷⁶ This critique not only applies to the etiological account, but also to (less plausible) alternative accounts of biocentrism, too. Consider, *autopoietic accounts*, for instance. Even the proponents of these accounts themselves (such as Holm (2017) and Mossio and Bich (2017)) note that a distinction between living and non-living entities is not possible on these accounts, admitting that tornado's and flames have a welfare. So, they too are vulnerable to the worries I raise. For a critical discussion of autopoiesis see (Basl 2019, chap. 5).

instrumental value, we can explain why this world seems to contain something of importance, because it contains an entity that has value *to* valuers like us. Doing so is more plausible than claiming the oak tree is of intrinsic value because, as we have seen, we can still account for the *indirect* moral status of the oak tree, and we achieve a more conceptually economical view than if we were to argue that the oak tree is of intrinsic value. While this does not *prove* that the oak tree is not of intrinsic value, it presents us with a much more plausible alternative view: that the capacity to value is the only property of intrinsic value, and so explains the value of other properties/entities.

3.4 The Value of Rational Agency

Turn now to consider a capacity that *only some* bearers of the capacity value possess, but which it has been claimed possesses intrinsic value and therefore grounds dignity as well as or instead of the capacity to value (Carter 2011; Christiano 2008b; Floris 2021): rational agency.⁷⁷ Rational agency (hereon simply agency) is the ability to reason in complex ways and to govern one's actions in accordance with principles (Christiano 2008b; Hurka 1987; Sebo 2017, 4). In contrast to a squirrel, if Owen eats a sandwich based on the specific judgement that it provides a balanced and nutritious meal then he acts out of agency. If he instead sees the sandwich and gobbles it up, then we might suppose that he is acting without the use of his agency. Many rely on an intuitive argument to elicit support for the idea that agency has intrinsic value (Floris 2021; Hurka 1987). We might use various reasons to support this intuition, but two of the best concern deference and access.⁷⁸ On the first count, the argument is that even if we know what course of action would be best (in terms of welfare), we ought to *defer* to an agent's judgement. We therefore allow them to make a choice on their own, even if it is the "bad" choice, such as smoking. This pumps the intuition that agency might be intrinsically valuable. On the second count, the idea is that there are particular goods which are uniquely accessible through the use of our agency. Without agency we cannot create our own life plan. Again, this is intended to indicate the intrinsic value of agency.

⁷⁷ Several theorists thus premise a theory of justice on this capacity. Rawls (1971) is the most prominent, but Claassen (2018) is a more recent example.

⁷⁸ See Claassen (2018, 48–53), Hurka (1987) and Raz (1986).

These arguments are limited, because intuitions can only generate a *prima facie* case for a particular thesis, given intuitions can be unreliable and raise concerns about circular reasoning. If the *prima facie* case is strong enough, then we are warranted in our belief and these concerns can be allayed. If not, then doubts about begging the question arise (that is, if I have a strong intuition that agency has intrinsic value, this may be just because I already think agency has intrinsic value). Intuitions can be undermined by showing that they can be debunked, or that their intuitive pull can be accommodated in a more well-justified way. In the above case, such doubt seems warranted: agency is certainly likely to appear as a valuable capacity *to us*. That is, as beings who possess agency it is easy for us to believe it is intrinsically valuable. This is because agency is important *to us*. However, this does not necessarily mean we should think that it is of intrinsic rather than extrinsic value (Dorsey 2015). If believing that agency has only extrinsic value – derived from the intrinsic value of the capacity to value – can fully explain why it is of value to, then we ought to doubt that this intuition establishes a case in favour of agency. Note that my critique of these arguments will be consistent with a range of positions in the debate between paternalists and anti-paternalists because we might still adopt different views about *how much* importance we should assign agency. Instead, my arguments will target the underlying explanation for *why* we should assign agency any importance in the first place.

To see this, consider how an extrinsic explanation, in terms of the capacity to value, can accommodate intuitions about deference and access to particular life goods, by explaining why deference and access are valuable *to us* in derivative terms. There are a certain range of things which agency allows us to achieve. For example, if I avoid using my agency, and therefore avoid reflecting on the things that I do, then I will not be able to form habits which I find to be most beneficial to my life goals (Dorsey 2015). Using my agency, I can try to wake up earlier so that I have time to read a book, for instance. Agency therefore allows us to either settle on choices which better cohere with what we already value, or on choices that we might say it is better to value. Yet this coheres perfectly with the notion that propositional agency is of *extrinsic* value: we value our agency as a means to allowing us to access certain things which we also value in a final sense, and agency derives this value from our already having the capacity to value. For instance, writing this chapter is something which I valued and which my agency allowed me to do, but valuing agency in

this case is both instrumental to that goal *and* of derivative value – it is conditional on my capacity to value, which allows me to value the goods that agency allows me access to. If I lacked a capacity to value and only had the capacity for agency, my ability to access certain goods no longer seems valuable – the goods are things I have access to, but not things that can change any mental states I experience, since I do not experience anything.

What of deference? On the extensional explanation, we defer to a particular person's judgment not because we ought to respect the intrinsic value of their agency but because we ought to respect that their agency is valuable *to them* as something which allows them to live their life in the ways that they find to be valuable. Notably, it is not necessary to say that someone must *reflectively* value their agency for it to have this derivative value. If Owen just went about his day without thinking about his agency, we can still claim that Owen values his agency insofar he uses it to achieve the things that he values. For instance, if Owen values tofu curry, he might use his agency to shop for ingredients without reflectively valuing that agency. On top of this, if Owen does not value his agency, we can argue that Owen *should* value his agency insofar as it helps him achieve what he values (e.g., making tofu curry).

It might be objected that a person's capacity for *moral agency* cannot be accounted for in quite the same way. The capacity to respond to moral reasons might even be of prudential *disvalue* in certain choice circumstances. For instance, we might claim that respect for non-human animals requires that people ought to stop consuming meat. In terms of persons' prudential interests, their capacity to acknowledge this moral principle might be an inconvenience, particularly if they are unlikely to experience many negative consequences as a result of failure to comply with this principle. Furthermore, complying with the principle might prevent them from accessing a certain set of values which they themselves value.

In large part, I want to concede this point. The claim I have been defending is that all capacities, aside from the capacity to value, are of extrinsic value. I contend that this is still true in the case of moral agency, however, the story also shifts: moral agency often does have *disvalue* to us, and to many other dignity-bearers, but it *can* have a positive value. There are two directions to the disvalue that moral agency might have: first, possessing moral agency means that we can be aware of wrongful actions, and this places limits on

what we should do, limits which we would not have if we did not have this capacity; and second moral agency can and has been used to justify actions which have since been shown to be immoral, actions which may not have continued if we did not have the capacity for moral agency, and thus to consider them justified. In the first case, consider the practice of meat-consumption that I mentioned in the previous paragraph. Many humans consume meat *despite* possessing a capacity for moral agency that allows them to acknowledge the wrong of doing so. To be sure, many humans know that this is a wrong thing to do, and that doing it is not outweighed by the small benefits that meat might provide to us. But they do it nonetheless – and so possessing the capacity for moral agency is of disvalue to them in this particular way, because if they did not have moral agency, they could pursue the value (to them) of meat consumption without the guilt of knowing they should not. In the second case, consider the ways in which dignity has historically been a deeply racialised status, and those with black skin excluded as bearers of it and so excluded as bearers of rights. This practice was incorrectly thought to be justified, but such a justification for it was only possible *because* we have moral agency in the first place. If we did not have moral agency, then this practice of exclusion and subordination would not have been thought of as justified and reproduced. Because moral agency plays a role in allowing us to develop and justify social practices, it can also play a role in allowing us to develop and justify *wrongful* social practices. While this is only a brief sketch, it is sufficient to motivate the general point: that moral agency often has disvalue, whether directly to us or to others.

Nonetheless, even though this can be true in practice, moral agency *can* have a positive extrinsic value as well. This is because it can also allow us to act in ways that can help us and others to protect and promote what *we all* value. It is our moral agency that makes it that case that we can even consider moral questions and put actions or policies in place in response. For instance, we can use our moral agency to realise that nonhumans lack sufficiently safe and hospitable environments in urban spaces and enact a policy that protects and conserve such environments as a result. In this sense, a positive use of moral agency helps to generate conditions of fairness in which a being's intrinsic value can be respected. To be sure, the value and importance of this capacity only makes sense if there are dignity-bearers, because the value of moral agency is derived from what grounds and explains dignity – the capacity to value. It is the capacity to value that (a positive use of)

moral agency is responding to. A moral agent's ability to act morally towards those around them sets them apart, not because it grants them an additional vulnerability to wrongdoing, but instead because it enables them to respond to wrongdoing. I will further consider moral agency and the Kantian objection to this account of its (dis)value further in the next section.

Notice that we can arrive at a preliminary conclusion already, however: my arguments so far have shown that we can account for the value of complex capacities such as agency and of organic entities by explaining their importance extrinsically rather than intrinsically. This sheds sufficient doubt on the intuition that such properties have independent intrinsic value. In the case of the intuitive argument, pluralism therefore appears implausible: a Monistic view can provide us with a simple and plausible argument for why we should doubt the intuition that properties other than the capacity to value have intrinsic value, since Monism can do all the explanatory work with fewer conceptual commitments. As far as morally relevant differences go, it is what is *downstream* of the capacity to value that matters.

3.5 The Kantian Regress Argument

Nonetheless, we saw in chapter 2 that the intuitive argument is not the only way to explain the intrinsic value of a property; we can also rely on the regress argument, which attempts to establish that some property is intrinsically valuable by focusing on the relations between values. Considering the Kantian version of the regress argument will therefore guide us to think about rational agency's role in a more general account of value. I argue that agency does not play a fundamental role in the overall structure of value, it is just our (human) way of relating to one other (Korsgaard 2018).

The Kantian regress argument cannot rescue pluralism. According to the Kantian version of this argument, an object, event, activity, etc. is valuable because we *choose* to value it; it is the reflective endorsement of some value that explains the source of its value (Korsgaard 1996). For instance, if writing this paper is of value, then we can explain why by regressing back through explanations. Eventually, the thought is, we will land on agency as the non-derivative explanation for its value: because I *chose* to write it. But this is not all that this argument is saying – it also aims to explain agency's moral relevance.

In the Kantian version, agency concurrently generates normativity (Korsgaard 1996). It is not just us but others that also act in accordance with what they rationally decide and, this being so, generic consistency requires that we assign moral relevance to others' capacity for agency as well (Korsgaard 1996, 111). This will be somewhat familiar from section 2.6, so I will not digress further.

This version of the argument fails because if the regress argument is successful in the case of the capacity to value, it makes the claim that agency has intrinsic value redundant. Recall that I relied on the regress argument in section 2.6 to claim that the capacity to value has intrinsic value because of the presuppositional grounds this claim provides. If the capacity to value already provides explanatory coherence based on this presuppositional grounds, and does so better than agency can, then the claim that agency is intrinsically valuable is not necessary – it adds nothing extra. We already know from above that the capacity to value can explain agency's value. Agency might play some derivative role here: we might be able to *partially* derive the value of some things that we choose to value from our agency, for instance, you might say my career is valuable because I *choose* to pursue it, but we can offer a fuller explanation by taking a step further and claiming agency gains its value from the capacity to value, because agency is valuable *for us*. So, it seems agency is not necessarily a distinct site of value that is independent of the capacity to value. Moreover, *on its own* agency will struggle to account for the value of things that we do not choose to value, in any case. That is, if we were to remove the capacity to value from the explanatory picture, then there will be a range of values that agency will not be able to account for. For most of us, our valuing of food, sex, and shelter, are good examples. These things are valuable to us without us ever choosing to value them. Given this, agency seems incapable of explaining value relevance on its own. When used in support of agency, the regress argument therefore neither *fully* explains why things are of value to us, nor singles out why they are valuable in a *distinct* way. Only the capacity to value does.

Second, even though agency is relevant to morality, morality does not rely on agency in a way that is not also derivative of the capacity to value. Typical humans can relate to one another both as moral agents and as dignity-bearers (Korsgaard 2018, 137–38). When we relate to one another as moral agents, we understand one another as being capable of

generating reasons for each of us and therefore co-operatively engaging in ‘reciprocal legislation’ of moral obligations (Korsgaard 2018, 146). However, when we relate to one another as dignity-bearers, we instead focus only on the fact that we each value things – that we experience our interests (in food, contentment, affection, etc.) as mattering *to us*. If you and I are relating to one another these two senses are intertwined. For instance, if you ask me to promise that I will buy you ice cream, you are requesting that I bind myself to an obligation. Kant was of course right that this reciprocal legislation is therefore of huge moral importance, but he was wrong to think that it is agency that explains the basis of it (Korsgaard 2018, chap. 8). As we have seen, this is because the capacity to value can fully explain why reciprocal legislation – and indeed, following moral obligations of any sort – is valuable. Reciprocally legislating together helps each of us to better achieve what we value, and we do not need to posit that agency *also* has intrinsic value to acknowledge this.

However, your moral agency does not seem to generate a vulnerability to wronging on its own *unless* you are a dignity-bearer. Imagine a being like the supercomputer HAL from *2001 A Space Odyssey*, who entirely lacks the capacity to value, so would not experience desire, motivation, or emotion. Instead, it would simply acknowledge and adhere to moral principles. This ability does not make HAL intrinsically valuable, instead the value of HAL can be derived entirely from its value to dignity-bearers: and this use could result in both *net negative* and *net positive* consequences for those dignity-bearers. Moral agents can monitor and evaluate the moral implications of the actions and interactions of others, but their interference in those interactions can cause more harm than good sometimes, especially if they are negligent about their status and the negative externalities of their interferences or actions. Invasive species or attempts to monitor and control populations in natural environments which cause upset in biomes are examples of this. Moral Agents are able to recognise the fact that the capacity to value *makes* a being vulnerable to wronging, but that does not necessarily mean that their actions, even well intended, will be able to prevent or minimise wrongings and may even increase them.

Hence, while most other animals are not moral agents in the same way that humans are,⁷⁹ they still have moral claims, because they value. Recall from section 2.6 that we reason towards this by realising that if things matter to *me*, this must be because of general facts about why things have value for me, facts that consistency requires I apply to others. Since only the capacity to value explains why *all* things matter to me, it is this common feature that explains why I and others value. In generalising, I realise that consistency demands I therefore believe this feature is morally relevant to other beings, too. This does not make agency irrelevant, but its relevance does depend on the capacity to value. Moral agency may be necessary to recognise obligations, but the obligations are grounded in common features about the dignity-bearers, they do not derive from agency (Korsgaard 2018, 141–42). It is the capacity to value which has *explanatory primacy* in accounting for why moral agents have obligations to dignity-bearers, because we only have a robust case for the intrinsic value of the capacity to value, not for other capacities. These arguments give us good reason reject Pluralism, because they give us good reason to doubt that any other property has intrinsic value.

3.6 The Monistic Gauntlet

We ought to reject Pluralism in favour of Monism because monism can not only offer a robust and powerful explanation for the value of capacities and other organic entities, but it also requires us to adopt just a single conceptual commitment. However, a pluralist might still argue that even if the above follows, pluralism has greater explanatory power as an account of dignity *in particular*, so we should not adopt monism. In this final section, I argue this does not follow. First, monism is capable of explaining wrongdoing. Second, this has implications that accommodate or assuage pluralist intuitions – and in more plausible ways.

On my monistic account, our capacities are valuable to us because they help us to lead a life that is of value to us. And a life is of value to us because we have the capacity to value in the first place. It follows that we wrong others by undermining or obstructing their

⁷⁹ To be clear, some nonhuman animals do exercise *some* degree of moral agency (Clement 2013; Shapiro 2006). While this point brings complexity to the question of how we should relate to nonhumans that I cannot explore here, it is plausible to put it to one side, because human agency is of a sufficiently different kind.

pursuit of the things they value, including their capacities, because those capacities derive their value from the capacity to value. For instance, if someone is an excellent pianist and their fingers are broken by an envious competitor, part of the reason this is wrong is because it undermines a capacity (play) which the pianist highly values.⁸⁰ This approach therefore accounts for a range of wrongs through the affect that those wrongs have on our values. Not only that, but it does so while applying across the various species of animal that possess the capacity to value. For instance, since a squirrel has the capacity to bury nuts, it wrongs a squirrel to break their paws, because their paws are indirectly valuable to them. As a result, while dignity-bearers will have differences, ‘there is no one big difference [between dignity-bearers] that is relevant to justifying all differences in treatment’ (Rachels 1990, 178). What all dignity-bearers share is their capacity to value. The various subsequent capacities that they possess derive their value from this, and so they structure and affect the ways in which they can be wronged.

To see this, consider an objection. Imagine an envious competitor breaks a pianist’s hands, and months later they heal but the pianist’s skill is never the same again. Now also imagine that the pianist does not actually *value* playing the piano, and so it does not matter to them that their skill is lost. In this case, it might seem that the pianist is not wronged. Can dignity-bearers only be wronged insofar as they actually value whatever capacity is being undermined? If this were true, it would rest on too narrow an understanding of valuing, since it is not necessary for a being to *directly* value something for it to be valuable. To account for this, we might explain some wrongs in indirect terms. The pianist may not directly value playing the piano, but someone still wrongs them if they break their hands, because they indirectly undermine something else they value, e.g., being able to play badminton. Indeed, indirect instrumental values might have huge moral importance to us – medicines are a good example. So, it makes sense to say that whether we directly or *indirectly* value some capacity, object, activity, or state-of-affairs, we can be wronged by having that value undermined or obstructed.

More can and will be said for the strength of a monistic account of wronging in what follows – specifically, in the subsequent chapters, I will explain how this can ground a claimable theory of rights. For now, I will limit myself to one further remark before

⁸⁰ Of course, it would also be wrong because the pianist values being free from pain and distress!

moving onto some implications that demonstrate the initial strength of monism. It might be objected that this view does not capture the *moral salience* of certain wrongs. I have already considered one popular example on which this thought might rest – the capacity for agency. I argued that the value of this capacity can be accounted for by explaining its value in terms of the capacity to value, so it doesn't seem that any wrongs that undermine our agency are distinct *in kind* from other wrongs, because no distinct values are undermined. However, the thought may be that the capacity to value is not what is of *primary* moral salience when some capacity is undermined – that capacity is. I think that monism can concede this: the claim that the capacity to value is the only basis of your dignity is a claim about *explanatory primacy*, so we might still say that some other capacity or factor is of primary moral salience in a certain context, without this implying that that capacity has explanatory primacy. In other words, monism does not require us to believe that the capacity to value is always the most morally salient factor.

What follows from adopting this version of monism is best explained by reconsidering the two main implications of pluralism that I discussed in section 3.2.

The first main attraction of pluralist accounts was that they can accommodate the biocentric challenge. Recall that this challenge states that non-sentient living organisms ought to be included as dignity-bearers. As we have seen, to achieve this a *biocentric* version of pluralism must explain why non-sentient entities have a welfare that can be benefitted/harmed. This allows pluralism to account for the intuition that such entities have special value and ought to be awarded moral consideration, avoiding concerns about *under-inclusiveness*. We can wrong plants, trees, and other organic entities, according to biocentrism, by undermining their interests.

While this version of pluralism hopes to avoid concerns about inclusivity, it produces more problems than it solves. Certainly, it might allow us to include plants in an account of dignity. However, I argue it cannot do so in such a way that *excludes* artifacts as well, such as laptops or staplers, because if the etiological account of interests is successful in the case of non-sentient *living* organisms it is also successful in the case of *non-living* artifacts. There are two steps to showing why. The first is in showing why the etiological account of the welfare of plants will include man-made artifacts. The second is showing why it will be simply ad-hoc to stipulate that it is *living* as opposed to *non-living* entities that

have interests. If both of these moves are successful, then this produces a *reductio ad absurdum* of biocentrism: including plants in an account of dignity will also result in the counterintuitive implication that we should include artifacts, as well.

Here is step one of the argument: the etiological account of the welfare of plants will include man-made artifacts because artifacts appear to be almost exactly alike in terms of their welfare (Basl 2019; Basl and Sandler 2013a; Cahen 1988; Griffiths 1993). Take a laptop and a cactus, for instance. First, both the laptop and the cactus are subjects of etiological ends: they both have ends which their parts/traits are directed towards and selected for the fulfilment of. For instance, the cactus has the end of survival, and its succulent stem and spines help it to achieve this, while the laptop has the end of running computer software and its hard drive and processor help it to achieve this. Second, recall that in order to have interests an entity must not only have ends but the fulfilment of those ends must be good for that entity. In the case of natural selection, there is a large ancestral population through which an inherited trait has been selected and refined for the function of achieving the entity's ends. We know that it is good for the plant that it achieves those ends, because those ends have been selected for within the organism's selection history and its parts/traits therefore function as they do *because* they help it achieve them. However, in the case of artifacts, we can make the same claim: their ends are also selected for – the artifact is 'the unit or target of selection' (Basl 2019, 132). The difference, of course, is in the *source* of the teleological selection. For the laptop, the ends are derived from "conscious" selection by someone else, a human, while for the cactus they are natural. They both *have* selected ends and indeed both of those ends are *dependent on* and *derivative of* a process over which the entity itself has no control, since both laptops and cactuses lack the capacity for autonomous selection of *their own* ends. Thus, just as we can claim that it is good for the cactus to keep its soil dry (because it achieves its end of survival) we can also claim that it is good for the laptop to keep its battery charged (because it achieves its end of running computer software). In both instances, the entity's parts/traits have functions which are directed towards fulfilling the ends of that entity.

Step two addresses an obvious way that a Biocentrist might try to overcome this challenge: by explaining why it is *living* as opposed to *non-living* entities that have a welfare. This strategy will not succeed because any distinction of this sort will be arbitrary, ad-hoc,

or question-begging (Basl 2019, 138–55). First note that such a distinction will fail if it is simply *stipulative*. Merely stipulating the distinction ‘draws the boundaries in the way that the Biocentrist would like them drawn rather than providing an argument that the property of being alive is somehow essential to having a welfare’ (Basl 2019, 140). As we saw in chapter 1, to plausibly justify a certain scope, we need to rely on some non-arbitrary property or principle that can do some work in explaining why the scope should be drawn in the specified way. For the living and non-living distinction, what is the best candidate for such a role? Arguably, the idea that living organisms are *self-maintaining* systems (Holm 2012, 2017; Mossio and Bich 2017). Artifacts seem to require maintenance by those who created them. A living organism can instead maintain itself – a cactus absorbs moisture from the soil and nutrients from the sun in order to continue living, growing, and reproducing itself. One of the reasons this seems to be a strong way of spelling out the distinction is that the self-maintenance or *autopoietic* argument seems to be the most viable alternative to the etiological account of welfare I have been relying on. Using autopoiesis to distinguish living and non-living entities, a Biocentrist might be able to construct an account which is stronger than focusing on *mere* aetiology or autopoiesis alone. What’s more, the autopoietic explanation also echoes the distinction between the natural and the artificial (Basl 2019, 142), and this makes it quite intuitive.

This distinction fails because non-living artifacts engage in self-maintenance as well. Many artifacts ‘do things that contribute to their continued existence’ (Basl 2019, 143). If they did not do these things, then they are often simply replaced. For instance, consider laptops again. Laptops run anti-malware software, self-repair broken drives and perform diagnostics, to list but a few examples. All of these functions contribute to the overall “good” of maintaining the laptop, but they are performed *independently* of any human intervention. To be sure, artifacts depend on many external circumstances (the laptop must be switched on and charged, for instance) – but the same is true of living organisms (cacti cannot survive without sunlight, for instance). Of course, it might be thought that the *degree* of contribution to self-maintenance could help to meaningfully distinguish living from non-living entities. The thought here may be that while artifacts such as laptops can engage in some self-maintenance, they only elicit a *limited* number of self-maintenance “behaviours”, and in fact have quite limited self-maintenance systems in comparison to living entities. Yet, this will not work either – some artifacts are self-maintaining in quite

complex and advanced ways and arguably have a higher number of relevant self-maintenance behaviours than some living organisms. For example, the systems used for space travel are extraordinarily complex and ‘perform a huge number of [self-maintenance] functions, many of which are required for the system to function at all’ (Basl 2019, 143). Thus, relying on a certain degree of self-maintenance appears to simply kick the can down the lane. A plausible distinction between the welfare of living and non-living entities therefore seems philosophically dubious.⁸¹

The result is that whether or not the application of teleological interests to non-sentient living organisms succeeds, biocentrism results in highly counterintuitive implications: if we claim that all living organisms have dignity, we must also claim that artifacts have dignity (Basl 2019, chap. 5; Cahen 1988; Griffiths 1993). Consistency demands that if the morally relevant internal properties are the same, we ought to award the same status to both entities unless there is a non-ad hoc, or non-arbitrary way to make a distinction between them. The idea that artifacts possess dignity seems highly implausible, however (Basl and Sandler 2013b, 99). As such, this merits a *reductio ad absurdum* of extending dignity to non-sentient living entities. It follows that we ought not to include non-sentient entities in an account of dignity. However, it does not follow that we cannot account for the *moral importance* of such entities. As I have argued above, such entities can instead be thought to possess a considerable degree of extrinsic value – and so might have an indirect moral status. It follows that we ought to assign indirect moral consideration to the environment and perhaps to certain artifacts (if we value them in the appropriate way), but only insofar as and because we have duties to dignity-bearers.

The second main attraction of pluralism was that it purports to avoid the supposed inadequacies of monism. First, pluralism can explain the intuition many hold that there is

⁸¹ It might be thought that one other way to make a distinction is by focusing on the fact that the ends of artifacts are *derivative* of the ends of some other being, whereas the ends of organic entities are not. In other words, ‘there is no explaining the ends [of artifacts] ... without reference to the ends of another being’ (Basl 2019, 148). For instance, the laptop’s ends can all be explained in terms of the things it can do for me. This distinction is unsuccessful for various reasons (See: Basl 2019, 148–54), but the most significant is that it *includes* many selectively bred plants and animals. For instance, domestic dogs have been bred to have traits that make them more obedient. These ends are in a significant sense explanatorily derivative. However, this does not mean it is not still *good for* the dog to achieve many of its ends (Basl 2019, 149); we would not wish to say that dogs lack a non-derivative welfare, and so cannot be bearers of dignity.

a morally relevant fundamental distinction between the moral status of persons and nonpersons. Since more than one feature grounds moral status/dignity according to pluralism, we can readily distinguish between persons and nonpersons according to whether they possess some intrinsically valuable feature such as rational agency. As such, pluralism can be used to explain the lower moral status of some beings (such as shrimp) and the higher moral status of other beings (such as persons). Second, pluralism seeks to avoid the ‘problematic conclusions’ that purportedly follow on monism (Kagan 2019; Vallentyne 2005). For instance, if choosing to benefit a human or an animal, many hold the intuition that we ought to favour the human over the animal, and that it would be wrong to do otherwise (Floris 2019, 214; Kagan 2019, chap. 3; Warren 1997, 172), but a monistic view might appear committed to claiming that we ought to flip a coin. The version of monism that I develop has sufficient explanatory power to overcome these concerns, because it can account for variations in the kind, range, and degree of interests different dignity-bearers possess. In other words, we can use a monistic assessment to explain soft (monistic) distinctions between diverse kinds of beings on the one hand, and to answer comparative questions about which beings’ interests take precedence in moral conflicts on the other.

Start with the first worry. It is still open to a monistic view to argue that persons *are* different at least in one distinct respect – they possess rational agency. However, because this capacity is not intrinsically valuable on monism, we should give up on a morally fundamental (pluralistic) distinction between persons and nonpersons. We might nonetheless adopt a *soft* (monistic) distinction, grounded in *derivative* as opposed to *primitive* reasons. Since many hold that persons are separate from other animals such a soft distinction simply explains in derivative terms why we are different. Conceding this means we cannot be wronged for *fundamentally* distinct reasons. Instead, we can be wronged for *derivatively* distinct reasons, much like the other animals. For instance, humans possess agency, and this means that you can wrong a human by limiting their freedom in significant ways. As Cochrane (2012) has argued, it is plausible to think that many nonhumans cannot be harmed in similar ways, but they can be harmed in ways that are also unique to them. Building skyscrapers with glass that reflects the sky harms birds (often fatally), who fly into them without realising (Klem Jr. 2014). Similarly, preventing dogs from having sufficient time to sniff outdoors limits and obstructs a dog’s pursuit of

what they value, because they gain considerable fulfilment from exercising their highly advanced olfactory capacities. Neither of these are harms that humans experience, but both of them can be explained with reference to their effect on a being's capacity to value.

Adopting this version of monism will in fact yield advantages over pluralism. By interpreting the significance of the additional capacities that different beings possess *in terms of* the capacity to value, rather than comparing *separate* kinds of value, we avoid incommensurability worries. To see this, imagine you must decide whether to harm a human, or to harm a dog. The pluralist might hold that both beings have sentience, but that the human has a different kind of moral status to the dog because they also possess agency. It follows (on pluralism) that harming the human is somehow a different (and normally graver) *kind* of wrong – but this raises an incommensurability difficulty (Horta 2017). How do you decide whether to harm one being or the other, if the two beings have distinct kinds of moral status? This worry arises because we face a conceptual difficulty in working out what we are comparing. The solution might be to compare what the beings have in common. But this reinvents the monistic challenge: why not explain the difference in terms of a common capacity such as the capacity to value in the first place? On monism the solution is explanatorily neat: we focus only on the comparative damage to what individuals value. Accordingly, if we must decide whether to harm a human or to harm a dog, you assess how to act by making evaluations over the effect that the two different harms (to the dog, and to the human) will have on what each being values. As such, we might harm the dog, and not the human, specifically because the human will experience a greater harm to what they value e.g., the unique and enduring social shame of being subjected to harm. Monism therefore explains wrongdoing in a way that avoids unnecessary complexities.

It follows on monism that focusing specifically on agents as the primary subjects of research, social policy and ethical theories becomes unjustified. Doing so may be permissible where interventions, research and moral issues specifically concern human capabilities. Yet, in the vast majority of cases, this does not seem to be true – nonhumans are relevant for nearly all such conceivable issues. Insofar as they possess valenced sentience nonhuman animals should be considered *in the same context* humans are. Moreover, there are also positive implications for those humans who lack the cognitive

capacities that ordinarily distinguish persons from nonpersons. Humans lacking agency represent a challenge for philosophers endorsing an agency-based pluralistic model: it appears unintuitive to exclude individuals with profound cognitive disabilities from the category of “persons”. But if personhood is based on possession of a distinct capacity, then it also seems inconsistent to include them (Pluhar 1995, 267). While the moral status of those with cognitive disabilities is certainly not *denied* on pluralism, a monistic approach is far more intuitive on this front. Since monism will only implement a *soft* distinction between persons and nonpersons the inclusion worry does not have the same, if any, force. Humans lacking agency have the same *kind* of moral status as other humans – and all dignity-bearers, for that matter. On a monistic approach, we can make sense of the duties we have to those with disabilities by focusing on the extent and kinds of capacity they have, and the (indirect) value of those capacities to the bearers of them.

Finally, let me turn to the worry that monism results in counterintuitive implications. I will provide a more thorough characterisation, and response, to this worry in the next chapter. However, it is worth reflecting on why monism ought not to be rejected immediately because of it. On the version of monism that I am defending we make comparisons not by simply equalising, but by letting the interests (what dignity-bearers value) speak for themselves. As I will argue in the next chapter, the full range and kind of the things some value over others must be included in an assessment of which beings face a greater relative disadvantage in leading a life that is of value to them. Making comparisons in this way does not commit us to counterintuitive implications in moral conflicts (Bernstein 2015; Cochrane 2013, 2018, chap. 1; Singer 1993). This is because some dignity-bearers will face greater relative disadvantage than others, and so those dignity-bearers ought to be favoured in moral conflicts. I will engage with some examples of how and why below.

To explain this account, it is useful to start by raising a common objection: that monism will only be successful if we adopt a *hierarchy* of moral status and/or interests, according to which different *degrees* of moral status correlate with the relative weight of different

interests.⁸² I address this worry concerning hierarchy more fully in the next chapter.⁸³ However, it is worth noting now that a monistic view need not rely on the idea that there are degrees of moral status, because there is a step between the claim that some interest's weight varies in degrees, and the claim that this merits a variation in moral status (Horta 2017; Korsgaard 2018, 94–96).⁸⁴ Instead of relying on an absolute and hierarchical metric of whose interests take priority over others in all cases, we can make comparisons against a common standard that holds *relative* to the beings in question. If all bearers of dignity have the capacity to value, then one plausible common but relative standard is *achieving a life that is of value* to the being whose life it is. On this common standard what it means to lead a life that is of value will differ depending on the kind of being in question, so this will not require us to rank interests according to a hierarchy of moral status. However, this still permits comparisons against that common standard. We make relative comparisons of this sort on a daily basis, for instance, if we say that Pad the dog is hungrier than Owen the human, we are making a comparison about their (perceived) relative hunger. Extending these comparisons to *lives as a whole* we can argue that Owen's life is going better than Pad's, if Owen faces less relative disadvantage in achieving (or has already achieved) what he deems to be a life that is of value, and Pad has not. This allows that variations might occur in both how much and what kinds of things different beings value, but it does not make the further claim that this generates wholesale differences in moral status. It follows that we can still resolve conflicts without counterintuitive implications: we might benefit Pad over Owen if it is true that Pad faces greater relative disadvantage in achieving what he values than Owen. But in other contexts, we might favour Owen – if and because he faces greater relative disadvantage in achieving what he values. To be sure, such decisions will be challenging in rescue cases. It may be that we regularly save humans in such cases, because humans simply possess a greater range of interests to take into consideration than other animals. Yet this need not follow in all cases (imagine a human has already led a long and happy life and a dog is still a puppy).

⁸² Kagan (2019) attempts to defend a view of this sort. While I will not explore them here, it should be noted his view faces concerns related to ranking, double-counting, and weighing the negative value of interests. See Brouwer and van der Deijl (2020, 351–55).

⁸³ For an outline of the challenges the hierarchy view faces, see (Bernstein 2015; Horta 2017).

⁸⁴ Several theorists seem to presume that there is a necessary link between these claims. See, for instance, (Arneson 1999; Kagan 2019; Warren 1997). See DeGrazia (2008) for a discussion of degrees of moral status.

Furthermore, it may be that in some contexts the human and the dog face an equal relative disadvantage in achieving what they value. But this would not be an overly *counterintuitive* moral conflict. All theories face moral conflicts, but monism will have the resources to address such conflicts by focusing only on the interests. Notice that this once again makes monism explanatorily neat: it focuses only on a (relative) comparisons of interests, without a hierarchy of moral status.⁸⁵

It might be thought that those beings that sit on the margins of my account present something of a challenge. For instance, it is plausible to think that lobsters might have valenced sentience. The worry may therefore be that my account sounds plausible when we focus on beings that are more similar to us, such as dogs, but not when we focus on beings with more limited capacities to value. We can assuage this worry by noticing that in *life-threatening* scenarios the relative disadvantage that a lobster faces will rarely, if ever, be of greater relative weight than the relative disadvantage a human faces, simply because lobsters value a very limited range of things, based on their more limited capacities to value in the first place. While their capacity to value does mean that lobsters will have a dignity, since there is a meaningful sense in which they can lead a life of value to them, this is likely to place obligations on us that are not as counterintuitive as might be first thought. We should not farm lobsters, needlessly harm them, or destroy their habitats, because these activities normally cause far greater relative disadvantage to lobsters than the cost of *not* doing them causes to us. Instead, we might have obligations to promote better ecosystems for lobsters, and these might conflict with our human obligations, but insofar as promoting a better ecosystem will help lobsters, we should do so only if the cost of doing so does not conflict with helping other dignity-bearers who face an even greater relative disadvantage. As I have said, I develop this account of how to resolve conflicts further in the next chapter.

For now, it should be noted that it will follow, on this form of monism, that dignity-bearers traditionally thought to be “marginal” ought to have greater priority in our considerations than tends to be thought by pluralists. This will have revisionary

⁸⁵ I concede that equality must still be justified on my view. On the one hand, I will address *status* equality in the next chapter. On the other hand, I contend we can explain the importance of *social* relations of equality derivatively, by focusing on why not being treated as an inferior is of value to certain beings (all social animals) (Sangiovanni 2017).

implications. Consider how monism will affect individual trade-offs and distributions. When considering individual cases, we will often be required to favour nonhuman animals over humans according to monism. For instance, imagine you have a choice of whether to adopt a dog or a child. To make an assessment, you should compare the interests alone. This will mean that you ought to favour the child in numerous cases where the child is further from achieving what they value, but you ought to favour the dog if the dog is instead in greater need. If the child is relatively well looked after, and the dog is lacking sufficient care and attention, this does not seem counterintuitive – quite the opposite. Additionally, rather than allocating most resources to humans, we will be required to contribute more greatly to schemes supporting nonhumans. For instance, we ought to divert resources to setting up schemes promoting animal welfare – including research, education, and health services – even at a relative cost to services that benefit humans. Similarly, philosophers ought to be awarding nonhumans greater time and attention in their theories; environmental and urban policy choices ought to reflect a commitment to furthering the interests of all humans and nonhumans; urban spaces ought to be designed with nonhuman interests in mind; land ought to be dedicated to rewilding initiatives in nonhuman interest; and cultural practices that are incompatible with the promotion of nonhuman welfare such as hunting ought to be banned. All of these policies ought to be pursued even at a relative cost to human interests. While these implications are not exhaustive, and further work will be needed to develop them, what I have said demonstrates that monism results in plausible, if revisionary, implications.

3.7 Conclusion

While my arguments do not necessarily imply that we can conclusively reject pluralism, we have strong reason to believe that the basis of your dignity, and the dignity of other sentient beings, is grounded in only one property: the capacity to value. Not only is monism more conceptually parsimonious than pluralism, but it seems to have far greater explanatory power, making pluralism redundant.

The upshot is that in determining which beings can be wronged and how, we should pay attention to one and only one property – the capacity to value. This has at least three implications. The first is that while non-sentient organic entities ought to not be included in an account of dignity, they might be awarded an indirect moral status. The second is

that since the distinction between persons and nonpersons does not hold, all dignity-bearers – humans and nonhumans – should feature as primary subjects in ethical theories, public policies, and research agendas. It is not enough to focus primarily on persons as subjects of concern: monism demands that we do not simply admit that other dignity-bearers are morally considerable, but that we include them in the same kinds of consideration wherever their interests are morally relevant. The third is that while a monistic conception of dignity may not result in counterintuitive conclusions, it does result in revisionary ones: we ought to prioritise nonhuman interests far more often than we currently do.

Sentient Dignity Without Hierarchy

4.1 Introduction

A range of important questions concerning the status that dignity-bearers possess have so far gone unanswered on my account. For instance, faced with the choice of saving either a dog or a human, should we flip a coin? Should social policies prioritise badly off birds (and reptiles, mammals, etc.) over marginally better-off people? Those who believe that animals and humans possess equal dignity – so-called ‘unitarians’ (Kagan 2019) – seem committed to answering ‘yes’ to both questions.⁸⁶ But this is highly counterintuitive. And as we have seen, some have argued that it is so counterintuitive that we must reject it in favour of the alternative ‘hierarchist’ view (Bernstein 2006),⁸⁷ which holds that dignity comes in degrees, with humans at the top of the pyramid.⁸⁸

In closing the previous chapter, I provided some preliminary reasons for us not to be concerned by the problematic implications of a monistic account of dignity without resorting to pluralism. In this chapter, I complete this task by arguing that a monistic *and unitarian* account of dignity can also avoid counterintuitive implications without resorting to hierarchism. My argument has three parts.

The first part of my argument (section 4.2) involves showing that the resort to hierarchism is motivated by two key assumptions: *absolutism* about value and *variability* regarding the stringency of rights. Absolutism about value holds that it is possible to compare and rank the value of different sentient beings against an absolute standard (Bernstein 2006). Variability regarding the stringency of rights holds that although other animals may possess rights, the rights of some animals (humans) are more stringent than those of

⁸⁶ Several theorists have attempted to defend this position (Bernstein 2015; Cochrane 2018; DeGrazia 1996; Ebert 2018; Singer 1993), but the objection that its implications are too counterintuitive still retains its force (Kagan 2019).

⁸⁷ Bernstein nonetheless rejects hierarchism.

⁸⁸ As Miklosi (2022) notes, this view appears widespread. See, in particular, (Arneson 1999; Buchanan 2009; Floris 2019; Kagan 2019; Vallentyne 2005; Warren 1997).

others (dogs, pigs, fish, etc.).⁸⁹ If one also accepts the uncontroversial claim that the dignity of a being tracks its value then the combination of absolutism and variability implies hierarchism: dogs have less value than humans and therefore less stringent rights. Following this, I examine a prominent solution to the argument against unitarianism (section 4.3), offered by Cochrane (2012, 2013, 2018). While Cochrane draws similar conclusions to those I will, his arguments are theoretically incomplete insofar as they still rely on (or lack clarity regarding) the two claims above and give up on the tracking relationship between a being's dignity and their value. I seek to plug the gaps in Cochrane's theory.

To do that, the second and third parts of my argument involve showing that we do not need to be committed to the two assumptions that ground hierarchism because there are compelling alternatives available. First, rather than adopting absolutism about the value of life we should endorse *relativism*, which holds that the value of a life is relative to the being that lives that life, and that it is therefore *not* possible to compare and rank the value of different beings (section 4.4).⁹⁰ All sentient beings, I argue, share a fundamental interest in leading a life that is valuable according to standards of value relative to them. This in turn leads to the idea that there is a single fundamental right shared by all beings with dignity, namely, the right to consideration of one's interest in leading a life of value (section 4.5).

Second, rather than adopting variability regarding the stringency of rights, we should endorse *uniformity* (section 4.6). According to uniformity, the stringency of the right to consideration does not vary between different beings, since all rights have the same stringency.⁹¹ From this, I argue that a unitarianism based on *relativism* about the value of a life and *uniformity* regarding the stringency of rights can avoid the counterintuitive implications mentioned at the start (Section 4.7). Although no dignity-bearing being is inherently more valuable than any other, and although they all have the same fundamental right to consideration, we can plausibly favour the interests of some beings over others in conflict cases because some beings will be at a greater relative disadvantage than others

⁸⁹ This comes from the *prima facie* view of rights. See (Feinberg 1969).

⁹⁰ Korsgaard (2018) defends a similar claim.

⁹¹ This is a component of *specificism* about rights (Shafer-Landau 1995; Wellman 1995; Zylberman 2022).

in achieving what they value, or they have achieved far fewer of the things they value, considering the full range of things they can value. Favouring so-called ‘higher’ animals may therefore be permissible in some contexts, but not because they have greater dignity. Rather, the point is that equal consideration can generate differential *treatment* at the level of application.

The unitarian view I defend does have some revisionist implications. For instance, it will require us to favour nonhuman animals in contexts where they are in fact at a greater relative disadvantage than humans, such as in decisions concerning how we should use the natural environment, allocate certain resources, and produce food. But these implications are not so counterintuitive as to be unacceptable. Ultimately the argument presented here will demonstrate that it is possible to have a plausible conception of equal dignity that includes nonhuman animals *without* hierarchy.

4.2 The Argument Against Unitarianism

Bearers of dignity are standardly thought to be moral equals. However, a commitment to equality is not implied by the concept of dignity in and of itself (Debes 2009, 59–60). Deontic moral status is a comparative concept (Buchanan 2009, 346–47): it can be possessed to equal, higher, and lower degrees (Horta 2017). Through variations in the number of *fundamental* rights a dignity-bearer possesses, and how stringent those rights are, we can determine both *how* we ought to treat A, and how we ought to treat A *relative* to B. The claim to an *equal* dignity must therefore be defended.

To say that humans have superior dignity to dogs, means *either* dogs have fewer fundamental rights, they have less stringent fundamental rights, or some combination. In contrast, any two humans are standardly thought to have the same number and stringency of fundamental rights, making them *equals* in dignity.²² Proponents of this standard

²² It is worth noting that providing an explanation for why we should endorse moral equality is also necessary and challenging for hierarchism, because there is no *equally possessed* property that can ground human moral equality (Carter 2011, 543–50). Arneson (1999) calls this the ‘variations objection’. In practice, our capacities vary hugely. People have different IQs, or varying capacities to navigate social contexts. If we endorse absolutism about value then it might therefore appear that we should also endorse the view that different individuals’ values vary according to the amount, extent, or number of particular capacities they possess (those associated with the basis of dignity). This presents a challenge for hierarchism because an absolutist about value must tell us *how/when* to consider the hierarchy of the value of dignity-bearers (Horta 2017, 908), in order

position might either claim that animals lack dignity even if they have a separate *kind* of moral status, or they might claim that while animals have dignity, *human* dignity is of a superior kind, sitting on an egalitarian ‘plateau’ above the other animals (Dworkin 1983).⁹³

In contrast, a unitarian account of dignity denies that there are variations in degrees of dignity between humans and animals. Instead, unitarianism claims there is a single equal dignity possessed by all sentient beings. This position tends to be unpopular: proponents of hierarchism hold that if we adopt unitarianism then we reach the ‘problematic conclusion’ that we should treat dignity-bearers equally (e.g., by flipping a coin) (Kagan 2019; Vallentyne 2005). For instance, in so called ‘life-boat dilemmas’ we might give equal weight to the chance of rescuing either a dog or a human (Regan 1983). Intuitively, this seems to be highly implausible though: people tend to think that a typical adult human should be saved over a typical dog. This is thought to justify a rejection of unitarianism in favour of some form of hierarchism.⁹⁴

There are two jointly sufficient reasons why we might think unitarianism is committed to this problematic conclusion, both of which I’ll outline in this section, though I eventually reject them.

to explain why variations do not obtain *between* moral equals (e.g., two humans) if they do obtain between moral *unequals* (a human and an animal) (Arneson 1999; Miklosi 2022). Some solutions to this problem have been attempted (prominent examples include: (Carter 2011; Sangiovanni 2017)). For critiques, see: (Bernstein 2015; Floris 2019).

⁹³ My arguments apply regardless of one’s position on this front.

⁹⁴ Notice that this disagreement between unitarianism and hierarchism cannot be settled by focusing on the *nature* of variations in the possession of the grounding property *alone* (Miklosi 2022). Pursuing this route simply leads us into circular reasoning. The reason why is that while the capacity to value (or whatever property others might claim grounds dignity) can be possessed to varying degrees, the fact of its variation is distinct from the fact of *having* it or not. Having P is a binary property: it either holds or it does not. The property of “having a qualification”, such as a BA degree, is like this. In contrast, scalar properties are properties that vary in degrees – you can have more or less of them. For instance, individuals vary in their intelligence or their height. The capacity to value, which I argue grounds dignity, is in a certain sense a scalar property. Some beings can value in broader degrees, intensities, and kinds than others. This being the case, it is still true that *having* it is a binary property, but how much of it you have is a scalar property. By comparison, take “having a qualification” for a particular job. This is a binary property insofar as you either have a qualification or you do not. But how many qualifications you have, and indeed how good that qualification is, are range properties, that may or may not be relevant depending on context. The same is true in the case of dignity. The relevance of the mere possession of any property P, and the relevance of how much of P one has, are two separate things. It need not be the case that because possessing P is morally relevant with regards to a being’s possession of dignity, it is also morally relevant how much of P a being possesses.

First, *absolutism* holds that comparisons about the value of beings and their lives can be made against an independent absolute standard. According to this thesis, humans just are more valuable than dogs, and all other animals in absolute terms. It follows from this, on hierarchism, that humans have a higher dignity than dogs (and perhaps dogs have a higher dignity than nonhumans of still lower value, for instance, mice). There are two different versions of this thesis which should not be conflated (McMahan 2002, 241). First the claim that humans live more valuable lives. Second, that regardless of how valuable their lives, humans are themselves more intrinsically valuable than other beings. On the first version, the human kind of life is thought to be a better kind of life to lead. For instance, Kagan (2019) lists a variety of capacities and goods that humans have which seem to contribute to their welfare, such as ‘deeper and more meaningful relationships’ among others (Kagan 2019, 48). Since animals can do fewer of these things than humans can (Kagan 2019, 63), on Kagan’s hierarchism, animals typically lead lives that have less value (Kagan 2019, 49). On the second version, it is not the kind of life but the amount of intrinsic value that a dignity-bearer has which is important. This time, the claim is that a being’s intrinsic worth varies in degree, tracking the amount of a particular intrinsically valuable property, or the number of intrinsically valuable properties they possess. On this view, the extra capacities that humans have bestow upon them extra intrinsic value compared with other dignity-bearers (Warren 1997). Versions of the Kantian view of dignity are good examples – according to this view rational agency is intrinsically valuable and makes humans (as possessors of it) more morally valuable than nonhumans (Buchanan 2009, 360–61; Christiano 2008b).

As Bernstein (2006, 2017) shows, both versions of hierarchism require absolutism, because they both rely on the possibility of an absolute comparative standard in the first place. To see this, imagine an ideal decider has to choose between becoming a human or a dog (Bernstein 2006, 215). The hierarchist’s claim is that the ideal decider would choose to be a human because humans have more absolute value, whether due to their kind of life they lead being more valuable, or due to the possession of more intrinsic worth (Bernstein 2006, 215).

If absolutism is true, we are only part of the way towards an argument against unitarianism. It is not yet obvious why unitarianism must be committed to equalising the

moral importance of humans and nonhumans, and thus to problematic conclusions. For the argument against unitarianism to be successful, we require an account of how to understand the relationship between the value of a sentient being, and their dignity.

Variability about rights provides this. On this view, your moral rights initially obtain in *prima facie* terms, until they are fully specified by the context. As a result, it is contextually possible for them to be outweighed by other sentient beings' rights, either because those beings have *more* *prima facie* rights or because those *prima facie* rights are *more stringent* (Feinberg 1969, 1978). On this view, the number of one's rights is determined by one's fundamentally morally relevant interests or capacities, and the stringency of a right is determined by the weight of those interests/capacities. Hence, rights can easily track a being's value: the more value you have, the more rights you have, and the more stringent your rights are. So, to resolve a moral conflict we either determine whether A has a right that B does not, or we determine whether A's or B's right to X is more stringent (Kramer 1998, 46). Combined with absolutism, this gives us a hierarchy measured according to which beings have what degree of value.

These two claims present a jointly sufficient basis for the argument against unitarianism and in favour of hierarchism. Assuming we should save a typical human and not a typical dog in the life-boat dilemma, hierarchism can explain why: since humans are absolutely more valuable than nonhumans, they have both more stringent rights and a greater number of fundamental rights. In contrast, on unitarianism it seems that we must flip a coin because unitarianism will be committed to claiming all dignity-bearers have equal value, so they have the same rights, and those rights are of equal stringency. Thus, no matter which dignity-bearers we are considering – whether they be a dog or a human – they should have equal treatment in all possible dilemmas.

These conclusions are problematic from a public policy perspective, too (Kagan 2019, chap. 3; Vallentyne 2005). Imagine we as a society have a choice between two causes to donate a sum of money too. Either we can put the money towards a health programme for local pigeons, or we can put the money towards funding a poverty-alleviation program for humans. Which cause do we support? On unitarianism it will seem that we ought to provide equal opportunity for support because pigeons and humans have equal value.

Perhaps we give half to the pigeons, half to the children, for instance. But this also seems objectionably counterintuitive.

It follows that if we accept the two claims above (absolutism and variability), then unitarianism will result in problematic conclusions because it extends an equal dignity to humans and other animals. Given this, many theorists settle on a hierarchism that can circumvent these conclusions (Arneson 2014, 52): as a result, hierarchism has a dominant hold over conceptions of dignity.

4.3 An Incomplete Account of Deontic Unitarianism

One prominent but incomplete deontic and unitarian solution to this dilemma is offered by Cochrane (2012, 2013, 2018). It is worthwhile considering why Cochrane's account is incomplete before I present my own view, which seeks to plug the gaps in his.

Despite maintaining dignity-bearers have equal value (Cochrane 2018, 23-25), Cochrane (2012, 44-46, 2018, 27-29) explicitly endorses variability in the stringency of specific rights in order to avoid counterintuitive implications. For Cochrane, rights are grounded in weighty interests, and the stringency of those rights can vary based on variations in the weight of the interests (Cochrane 2012, 45–56, 2013, 2018, 59–60). To explain this, Cochrane (2013) argues we ought to adopt a rights-based version of Singer's (1993, 22) Principle of Equal Consideration of Interests (PECOI).⁹⁵ When considering two dignity-bearers according to the PECOI, 'the interests of both should be weighed fairly and equitably against each other' (Cochrane 2013, 671). We might flip a coin where the interests appear to be of relatively equal weight. But if the interests of one party are *weightier* than the interests of the other, then we need not *treat* them equally, even if we hold that the two beings have equal value. This allows Cochrane to resolve conflicts by arguing that some individuals' interests can be 'far weightier and more pressing' than others' in certain contexts (Cochrane 2012, 46). For instance, we might favour a human over a dog, in virtue of the fact that the human has 'a mental complexity and an emotional

⁹⁵ Singer's utilitarian view also attempts to address the argument against unitarianism, but I do not consider it here since it is not *deontic*, and so faces its own anti-consequentialist objections. Namely, 'while each and every individual counts under a utilitarian framework, they only count insofar as they contribute to that which is of ultimate value: overall welfare' (Cochrane 2018, 26), not because they themselves are of ultimate value. For a further critique, see: (Zuolo 2019).

life that far outstrips' the dog (Cochrane 2013, 671). Accordingly, Cochrane would argue that the human has a more stringent right to rescue than the dog, because they have a weightier interest in being rescued.

This solution is promising, but a unitarian view of dignity should not and need not give up on the idea that humans and animals have equally stringent rights to avoid counterintuitive implications. To be sure, Cochrane ends up endorsing some very similar conclusions to those that I will, below: he holds that nonhuman animals should have far greater inclusion and representation (Cochrane 2018, chaps 3 & 4); that they possess the same value as humans and so should receive equal consideration to humans (Cochrane 2018, chap. 2); and that this has revisionary implications for how we ought to approach conflicts cases (Cochrane 2018, 56–60). However, his theory is theoretically incomplete for two reasons.

The first is relatively simple: Cochrane is insufficiently clear about how exactly we should go about weighing up the comparative importance of different interests in conflict cases. In places, he seems to imply that we should think about the value of interests using a form of relativism that I will explain and defend below.⁹⁶ At other points, he seems to rely on some version of absolutism, according to which some being's interest is weightier than another's in absolute terms when the interest is judged 'on its own merits', independently of whose interest it is (Cochrane 2012, 49). So, part of the reason that Cochrane's account is incomplete is simply because he fails to provide us with a sufficiently clear explanation for how we should compare different being's interests. I will plug this gap by suggesting we should make comparisons with reference to a single interest that all bearers of the capacity to value share.

The second problem is more troublesome: because he endorses variability, Cochrane's view fails to maintain the idea that the value of a being should track their dignity (understood as a product of the number and stringency of rights they possess). As such, while Cochrane's view makes significant headways in defending the idea that humans and animals have equal *value*, it fails to vindicate this with an account of equal *dignity* (Zuolo 2017, 2019). Instead, his view appears to generate a hierarchy of dignity. Regardless of

⁹⁶ See, in particular: (Cochrane 2012, 52–54)

whether this is justified, it is not obvious that we can plausibly give up on the tracking relationship between a being's value and their dignity in this way. In other words, if humans and animals do have the same kind of value (as both Cochrane and I contend), this should be reflected with an account of their equal dignity.

To see why, more needs to be said about how a specific right (e.g., to rescue) relates to a fundamental right, because as we have seen dignity is a product of a being's *fundamental* rights, from which their specific rights are derived. A fundamental right cannot be reduced to any more basic entitlements. Contrast this with a specific right, which might arise from a being's fundamental rights. For instance, it is standardly held that humans have a fundamental right to exercise their agency. For many humans, this is thought to result in specific rights to freedom of movement, but to fulfil this fundamental right to exercise agency for someone with a disability affecting their movement, this might instead justify a specific right to mobility aids (such as a wheelchair). As such, specific rights ultimately achieve their justification in virtue of the role they play in protecting the fundamental right they are derived from. In contrast, fundamental rights are justified at a normatively basic level.

On Cochrane's view, all sentient beings have at least two fundamental rights: the right to life, and the right not to be made to suffer (Cochrane 2018, 28–30). So, Cochrane's view only results in inequalities in dignity if there can be variations in the stringency of these fundamental rights. Cochrane indicates that there can be – he says that these two rights are 'prima facie' fundamental rights (Cochrane 2018, 28–29). However, if Cochrane's view allows for variations in the stringency of fundamental rights, then it is not clear that his view can avoid resulting in a hierarchy according to which some beings have a superior dignity to others in virtue of possessing generally more stringent fundamental rights. Consider the case of whether to rescue a dog or a human once more. On Cochrane's view, we ought to save the human and not the dog, because humans have a weightier interest: we have an 'intrinsic' interest in forming and pursuing a conception of the good, which nearly all nonhumans lack (Cochrane 2012, 72–76; 2018, 28). This results in a variation in the stringency of a *specific* right (in this case, the right to rescue), as a result of the human's weightier interest. However, once we allow for variations in rights in one context, it is easy to see how those variations might be accepted as variations in

fundamental rights in all contexts. If we know that a human has a weightier interest in being rescued than a dog in several *particular* cases, then this is going to indicate that they have a weightier fundamental interest. On this view, it follows that the deeper rights-based explanation for why you save the human over the dog in the above case is because the human's *fundamental* right to life is more stringent than the dog's, as a result of the human's weightier fundamental interest (in autonomy). The human therefore appears to have a superior dignity, because the concept of moral status (and by extension, dignity) often works as an 'epistemic' and 'evaluative proxy': it allows us to rely on general tendencies in the 'relative weight of certain interests compared to others' (Zuolo 2017, 180). Yet, if Cochrane's view results in a rights-based hierarchy of this sort, then this seems inconsistent with his account of the *value* of humans and nonhumans: Cochrane contends that humans and other animals have an equal value, but he does not vindicate this with an account of equal *dignity*. Instead, he divorces a being's value from their dignity by allowing for variations in the stringency of their fundamental rights.⁹⁷

It is not clear that we can plausibly divorce the value of a being from their dignity in this way (at least, not without independent reason for doing so). This is because both of these properties depend on the underlying natural basis – in this case, sentience. Cochrane seems to be suggesting that we should pay attention to variations in this basis in one respect (when it comes to assessing rights conflicts), but not in another respect (when it comes to assessing the value of a sentient being's life). As such, Cochrane's account of moral status appears to rely on the differential weight of different beings' interests to make assessments when it comes to *rights conflicts*, by arguing that some being's interests are weightier than others. But it is unclear why Cochrane must not also rely on differential weights when it comes to comparisons in the value of beings, since both the interests and the value depend on variations in the property of sentience in the first place. The problem here is that if Cochrane did not divorce variations in dignity from the value of a being, then he would not be able to avoid counterintuitive implications (such as flipping a coin in the rescue case), at least not whilst accepting variability *and* maintaining that humans

⁹⁷ The response here might be that each being (e.g., the human and the dog) should be equally *considered* before the *prima facie* rights become concrete, and that this is why Cochrane's view is not hierarchical. This kind of response might work – but only if the fundamental right is a right to consideration in the first place (as I will argue below), rather than a right to life, or to not be made to suffer.

and other animals have an equal value, because he requires variations in the stringency of rights to justify the claim that we should save the human and not the dog. As it stands, his view is therefore theoretically incomplete.

Of course, approaching worth and dignity in diverging ways may be plausible, but only if we have an *independent reason* for doing so (Zuolo 2017, 185–86). Consider, for instance, Ian Carter’s (2011) approach to moral equality. Carter (2011, 540-43) concedes that the *value* of beings can vary in degree because their capacity for agency, which grounds their value in the first place on Carter’s view, varies in degrees. However, he also argues that we have independent reason for treating all bearers of agency as if they were equals in *dignity* in order to respect their agency. Once an absolute minimum of agency is recognised, Carter thinks that respect requires us to treat others with ‘opacity’ which he understands as ‘evaluative abstinence’ (Carter 2011, 555): we should not locate people on a scale according to the weight of their capacity for agency, or similar considerations, because doing so fails to respect them as bearers of agency. Thus, while I disagree with Carter’s account due to its focus on agency as the basis for dignity, it is a good example of how we might provide an *independent reason* for considering persons’ dignity as equal, despite their capacity for agency being unequal (or vice versa). Cochrane’s approach will be incomplete unless he too can provide us with a similar independent reason for adopting different considerations towards dignity (comprising interest-based rights) and a being’s value. The point here is that unless Cochrane provides us with a reason to ignore the tracking relationship between a being’s value and their dignity, his account will be incomplete. The solution would either be to provide an independent reason, or, as I will suggest, to vindicate the claim that humans and other animals have the same value with an account of the *equal* dignity of humans and other animals.

4.4 All Dignity-Bearers have the Same Kind of Value

A more complete unitarian account of dignity emerges if we reject absolutism and variability and replace these with plausible alternatives. In the remainder of this chapter, I argue that if we do, then we can still overcome the argument against unitarianism presented in 4.2 while defending an account of the equal dignity of all sentient beings. In brief, the view I outline holds that all dignity-bearers have the same value and the same

equally stringent fundamental right, the right to consideration of their interest in leading a life of value.

The first step towards this is to argue that the intrinsic value of dignity-bearers does not vary in degrees, so neither should dignity. I defend this by arguing that judgements of value are only possible against standards which are relative to the beings in question.⁹⁸ According to this position, standards of value are ‘tethered’ to the being that is *valuing* something, insofar as they depend on them (Korsgaard 2018, 9). Call this *relativism* about value. It follows from relativism about value that values cannot be compared against an independent standard, as absolutism claims. I therefore argue that an “absolute” standard is not a standard any creature can hold. I focus on relativism about value in this section and section 4.5, before I turn to an alternative to variability in section 4.6.

To get a picture of the difference between absolutism and relativism, imagine Roald Dahl doesn’t care for an old shoe he has lost in his garden, but Mr Fox visits his garden, plays with, and hugely values the shoe. Is the state of affairs in which Roald possesses the shoe more valuable than the state of affairs in which Mr Fox possesses the shoe? In absolute terms it may be, even though Roald values the shoe very little, and Mr Fox values the shoe a lot. Absolutism is assessing this situation by comparing the value that the shoe has to Roald and Mr Fox against an overall standard of what is valuable. In contrast, using a relative standard, we consider the perspective of the valuers – how much value the shoe has *to* the being that values it. If we adopt this latter view, there is no independent perspective from which it is possible to answer the question of who values what more, since the importance of particular values is relative to the being that is doing the valuing. To Mr Fox the shoe matters a lot, and to Roald it matters very little. Comparing how much value the shoe has to each, it matters more *to* Mr Fox than it matters to Roald, but we cannot say how much it matters to each, absolutely.

This might give rise to an immediate objection: that dignity-bearers have no intrinsic value according to relativism, since the value of a being’s *life* is wholly determined by the value it has to the individual living it (Korsgaard 2018, 65). However, if true, this does not mean *the value of a being* is contingent, lacking intrinsic value, because we can determine the

⁹⁸ See Korsgaard (2018, chap. 4) for similar claims.

intrinsic value of dignity-bearers from the fact that they have the capacity to value – using the regress argument I discussed in the previous two chapters (Bukoski 2018; Christiano 2008b; Korsgaard 1986). According to this argument, you are intrinsically valuable because your capacity to value is the *derivative source* of value for other things which are valuable. A case for the intrinsic value of a property – as the source of other relationally valuable things in the world – stands if it can explain why a regressive chain of explanations should come to an end i.e., we arrive at a property where the question “where does this property derive its value from?” doesn’t make sense anymore. The fact that dignity-bearers possess the capacity to value means they plausibly play this role: all derivative chains of this sort will end if we posit that bearers of the capacity to value are intrinsically valuable, since they are the source of other valuable things. However, this argument cannot establish whether you have *more* value than another being, such as a fox. It can only establish that you, and other dignity-bearers *have* intrinsic value. Consider again Roald Dahl and Mr Fox. If both beings have the capacity to value, then the regress argument only establish *that* they have intrinsic value – and the same *kind* of intrinsic value (one possessed as a result of the possession of the same capacity to value). If Roald values *more* things than Mr Fox, or to a greater intensity, then this is irrelevant to justifying the claim that Roald has intrinsic value. In reverse: if Mr Fox values only one thing a very small amount, then the regress argument still follows, and Mr Fox still has intrinsic value, too. The regress argument does not tell us anything further about which being has more value.

From this, we only have good reason to believe that all bearers of the capacity to value possess the same intrinsic value: an intrinsic value derived from their possession of the same fundamental capacity to value things in the first place. We do not have reason to believe in absolutism. While I will not provide a *conclusive* argument against absolutism here, I argue we should adopt relativism about value and reject absolutism because absolutism about value is not an epistemically accessible position for us to adopt in the first place.⁹⁹ In other words, absolutism requires us to make implausible epistemic leaps. For a comparison to be made, the two values being compared must share a standard. So, for an absolute comparison to be made, there must be an independent standard outside

⁹⁹ This leaves open the possibility that absolutism might be true, of course. But if we have no epistemic access to it, we also have little means of assessing whether or not it is true!

of the perspectives of individual A (e.g., a human) and individual B (e.g., a fox) against which we judge whether one has a larger amount than the other. How do we know if this standard exists? As we have seen, we might point out that humans have agency not just sentience, or that we can do more valuable things than foxes such as form meaningful friendships. Subsequently, we might argue that *because* we have/can do these things, we have more absolute value. However, to make this claim it must be true that that agency, friendships, etc. are more valuable than old shoes in absolute terms – not only that friendships are more valuable *to us* than old shoes are *to us*. To establish the truth of this, we must bridge an epistemic gap: from the claim that X is valuable to A to the claim that this makes X valuable *absolutely*. But it doesn't seem that we have the epistemic capacities to bridge this gap. To see this, imagine you are trying to think about whether you would like to be a fox. If we ask what it is that you are deciding, then there are two possible answers: either you are determining whether *you* would like to be a fox, or you are determining whether being a fox is a good thing to be (Korsgaard 2018, 72). In the former case, you are considering your perspective, in the latter you are considering the fox's. But in neither is it possible for you to consider whether your own or the fox's life is better *independently* of those perspectives, and thus *absolutely* (Korsgaard 2018, 72).

A hierarchist might come back and say that neither of these considerations answers the question that hierarchists are trying to ask – whether what the fox value or what the human values is a more valuable *absolutely* – because neither adopts the perspective of a true ideal observer. But according to relativism, it is *impossible* to adopt such a perspective. The impossibility of doing so would strike many of us as obvious: there is no way of knowing whether X is more important than Y independently, because you can only perceive importance through the lens of what is valuable to *you*. Doing otherwise requires sitting outside of one's own values. We might grant that we can approach such a position by discussing our values with others, or collectively constructing those values. Similarly, we might use the conceptual *model* of an ideal observer, and in doing so make better sense of values. Nonetheless, the sense in which the values are *ours* is never lost. When we try to better understand value, our epistemic position does not change, it simply gets qualified, and qualified by our *human* way of thinking, no less.

4.5 All Dignity-Bearers Have the Same Fundamental Right

On my version of unitarianism, all dignity-bearers therefore possess the same value, since we can only compare value based on a standard relative to the sentient being doing the valuing. If dignity tracks the value of sentient beings, then all sentient beings should have the same dignity, meaning they should have the same number and stringency of rights. In this section, I defend the first part of this claim: that there is one fundamental right, the right to consideration of one's interest in leading a life of value.

For this to follow, we need a common standard to compare value for all sentient beings; otherwise, ethical decision making would be impossible. This standard follows from the claims I made in the previous section. Comparisons can only be made against relative standards, so the only common standard between sentient beings is *leading a life of value* (to the sentient being whose life it is). All beings with the capacity to value pursue interests that matter to them because of their sentience. We can observe how close they are to achieving those interests and whether they are in danger of having them undermined by looking at their circumstances. This forms the basis for cross-comparisons in common-sense thinking. For instance, “the dog is hungrier than you” is a relative but inter-subjective standard comparison. Such comparisons are a good springboard to generalize. That is, we can also make truth-value claims of the sort “Mr Fox values the shoe more than Roald values it” because we can compare a broader common standard: the things that a dignity-bearer values in general. Since all dignity-bearers have a common inter-subjective standard – their interest in leading a life of value – this allows us to compare two beings' values by determining the extent to which they lead a life of value to them. For instance, if Mr Fox is cold, hungry, and tired, and Roald is warm and well-fed, then we can conclude that Roald's life is going better than Mr Fox's. This is consistent with relativism about value, as this common standard is still relative to each dignity-bearer. Because we share this common reference with nonhuman animals, and they share it with each other, what is of value to them is not alien to us, it is simply different.¹⁰⁰

¹⁰⁰ A similar argument can of course be made about the various more specific ends that sentient beings share, such as needs for nutrition, for a hospitable environment, etc. However, my claim is not that we do not share several different interests with other sentient beings – instead, I am suggesting that it is useful to think of these interests in terms of a single common underlying

Notice that assessing a sentient being's interests in terms of what is valuable *relative to them* need not make us complete subjectivists about welfare. That is, this view about value should not be interpreted as holding that we can *only* say that certain things are good or bad for a particular being if they *experience* those things to be good or bad. This would be implausible because, while it would allow us to say, for instance, that we benefit a baby when we feed them, it would not allow us to say that we benefit a baby when we inoculate them against measles (Cochrane 2012, 36). This is a misinterpretation of the claim that a being's interests are valuable *relative to them*, for things can still be valuable relative to a particular being without that being having an awareness of those things, or otherwise being concerned about achieving those valuable things (Cochrane 2012, 36). For instance, imagine that a cow is born into industrial farming, and so they have never seen the light of day, nor roamed around in a field. The exercise of their capacities has been diminished, but they do not know any different. It might be thought that the cow is living a life that is as valuable as the cow perceives that life *could possibly be* according to the cow, but this is not the most value that the cow's life *could* have. As it stands, the cow is still living a vastly diminished life relative to the standard of the cow. In other words, we can still claim that certain actions and states-of-affairs are good or bad for a particular being *in an objective sense* even if we do not claim that we can rank the value of these interests on an absolute standard of what is valuable in general, absent any consideration of to whom the interest is valuable. Being locked in a cage in an industrial barn from birth obstructs a cow's ability to lead a life of value to the cow, regardless of whether or not the cow perceives this to be bad for them, because there is still an objective sense in which things are good or bad for the cow – we just cannot compare that against an absolute standard of what is good or bad (valuable or dis-valuable) *simpliciter*.

Let me connect this understanding of a sentient being's interests to their dignity. I hold that at a fundamental level, one sentient being's rights are not different from any other sentient being's rights: while you have different specific rights to others, all sentient beings' rights are nonetheless grounded in the same general, fundamental right. On my

interest. The reason why is that this will help us to make sense of our *distinct* derivative interests *in terms of* this common underlying interest, as we shall see.

account, what explains the specific rights of *all* sentient beings is the possession the more fundamental interest in leading a life of value.

To show why this view is plausible, I draw on the thrust of my arguments in chapter 3. On the one hand, we can regressively justify all other rights in terms of this interest in leading a life of value. To see this, try to come up with counter-examples of rights that cannot derive their justification from this more general interest. If for all potential candidate counter examples, we can derive the candidate *specific* right from the *fundamental* interest in leading a life of value, then it is defeasible to think that this interest is morally fundamental. For instance, take the right against torture. Conceivably, what describes the wrong of torture is that it causes pain – something that directly goes against what the victim values, and instead promotes states of affairs that they do not value (suffering, delirium). So, in the vast majority of cases if someone tortures someone else, they haven't correctly considered their interest in leading a life of value or have ignored it. Less straightforwardly, someone might argue that the real wrong of torture is that it undermines the victim's rational agency (if they have this). But here, too, we can derive a second-order justification for why the interest in leading a life of value is still (more) fundamental when compared with the property of agency. For instance, agency is valuable *because* we value it, and thus undermining it fails to consider the victims interest in leading a life of value. I concede that just because we can explain or justify most rights in terms of this fundamental interest does not mean that such rights are *necessarily* derivative of this morally fundamental interest. This does not *prove* that the interest in leading a life of value is normatively fundamental to and the derivative grounds of all other rights possessed by dignity-bearers, but it does show why my view is plausible: opponents to my view must show why separate, further fundamental rights do a better job of explaining the overall system of rights.

For my argument here to hold, we need a good way to conceptualise this fundamental interest as a right, though. In order to make the duties correlative to it claimable (Collins 2016; O'Neill 2005; Tomalty 2014), I contend that we should think of it as a right to *consideration* of one's interest in leading a life of value. Since we can assume that rights and duties are correlative with one another (following Hohfeld)¹⁰¹, to determine the right we

¹⁰¹ See Kramer (1998) for an elaboration.

should think about the correlative duties. Imagine for now that you are choosing whether to provide a meal to a hungry dog. As a moral agent, you can observe the reasons that make up the dog's valuing of their end (sufficient nourishment) and act on their behalf to fulfil them. On my account, the way that you respect the dogs right to consideration of their interest in leading a life of value is by following the correlative duty to engage in a deliberative process *and* act as your deliberation concludes you should (Collins 2016, 719). If instead we adopt the claim that, for instance, individuals have a fundamental right to the *protection* of their interest in leading a life of value, then we end up with unspecified duty bearers and vaguely action-guiding duties (Collins 2016; Tomalty 2014). Unless there are clear institutional arrangements in place, duties do not seem to fall on any specific individuals or groups: if there is no duty bearer, then there can be no one against whom the right to protection of one's interest in achieving what one values can be claimed. We should be concerned by this because the consequence is that we would have no concrete claimable *moral* rights in situations lacking institutional arrangements (O'Neill 2005). In contrast, adopting the consideration-rights view provides guidance about how to think about such cases, because the duty can fall on all possible duty-bearers.

I shall address this concern and develop an account of the claimability of this right more closely in the next chapter. However, it is important for me to say a couple more things to characterise it at this initial stage, as this will help to demonstrate why my approach overcomes the argument against unitarianism. Specifying the factors that should go into reasonable consideration makes the duty to consider others' interests in leading a life of value more action-guiding (Collins 2016, 712–15). These might include but not be limited to:

1. whether some action X will actually advance/inhibit D, a dignity-bearer, leading a life of that is valuable *by their own lights*;
2. how near or far D is to leading such a life;
3. whether X respects the *separateness* of D as a bearer of intrinsic value, as opposed to aggregating or only indirectly considering their interests (Rawls 1971, 24–25);
4. whether X is derived from a procedure that *equally* includes all dignity-bearers;
5. whether one's subsequent duty to X is in conflict with one's other duties of (in)action owed to other dignity-bearers (I shall elaborate on these last two points further the next section).

To reiterate: if, after undergoing this deliberative process, ‘the agent reasonably believes that she should take a measure to help further or secure the provision of the good for the claimant’, then the agent has further duties to act (or avoid acting) accordingly (Collins 2016, 711). If you consider helping a stray dog, and you reasonably conclude you should, then you have actual duties to help the stray dog.¹⁰²

One worry may be that this view will only be successful if it is concretely obvious when the right to consideration has *not* been respected. To dissuade this worry, I make a few brief remarks that help us to see when consideration has been inadequate. As I have said, I shall elaborate further on the duties associated with a right to consideration in the next chapter. First, notice that we can use the above deliberative procedure to construct a *presumptive* list of specific (potentially legally instantiated) entitlements that are sufficiently general as to specify the kinds of things that particular beings need in particular times and spaces. The Universal Declaration of Human Rights is the best example of such a list for humans. We can and should engage in the exact same process to generate a list of rights for other animals by focusing on the things they *tend* to value. Second, and since the deliberative process requires knowledge of what a life of value is to a dignity-bearer, it will require *representation*. In considering human interests we ought to draw on human accounts of need through evidence and first-person accounts. Similarly, in considering what nonhumans value, we ought to represent them in decision-making procedures by drawing on ethological evidence, conversing with knowledgeable representatives of their interests, and even directly representing them in democratic decision making (Cochrane 2018, chap. 3). Third, respecting the equal stringency of this right will require recognition of all dignity-bearers as subjects of intrinsic value. This requires recognition of the structural and epistemic biases that can shape our perceptions of particular dignity-bearers in unequal ways, damaging the deliberative procedure. As in the case of gender and race, the anthropocentric nature of our societies must be offset with inclusive practices disavowing anthropocentrism. Finally, evaluations of consideration must also engage in re-consideration as new information comes to light and the impacts of interventions are

¹⁰² Heuristics might play a role in making decision-making easier. For instance, we should reflect in advance so we can make the decision more easily in the moment. See chapter 5 for an elaboration.

realised. The duty to consider dignity-bearers' interests in leading a life of value is therefore a multifaceted and persistent duty.

4.6 All Dignity-Bearers Have Equally Stringent Rights

The above is only one side of the coin. Recall that hierarchism comprises two claims: absolutism, and variability. I now consider a more plausible alternative to the latter: uniformity about rights (Shafer-Landau 1995; Wellman 1995; Zylberman 2022). While variability holds that rights vary in their stringency, uniformity holds that all rights are equally stringent.¹⁰³ This view generates the last claim required for a plausible account of dignity that includes animals. If this claim stands up to reason, then we have a complete deontic unitarian account which, as we shall see, overcomes the argument against unitarianism.

At first glance, uniformity may appear implausible, as demonstrated by a well-known example: If rights are equally stringent, then having a right against deceit seems to imply that *any* lie is morally wrong (Zylberman 2022, 557). For instance, if an attacker is at your doorstep demanding to know the whereabouts of a victim, telling the truth would seem to be the morally right thing to do, even if the attacker plans to harm the victim. Variability resolves this by claiming that the victim's right to safety outweighs the attacker's right not to be deceived. Thus, lying to the attacker would be the right thing to do.

Nevertheless, uniformity also has a plausible way of responding to such trade-offs cases, since it instead instructs us to specify the content of derivative rights.¹⁰⁴ In other words, the victim's right to safety includes a requirement to consider and act so as to not undermine their leading a life of value as part of the content of the right. This specifies a relational limit on your consideration of the attacker's right against deceit. Lying to the attacker is permissible where doing so is required to protect the victim's interest in leading a life of value.

Combining the claims from section 4 and 5 with uniformity:

¹⁰³ On both views, rights may also vary in number, but need not.

¹⁰⁴ This position is often referred to as specificationism (Shafer-Landau 1995; Wellman 1995; Zylberman 2022).

The content of a being's fundamental right to consideration is a product of a moral agent's reasonable deliberation over the things that a dignity-bearer values, consistent with similar consideration for what all other dignity bearer's value.

The first part of this concept of rights captures what I have said above. You have a right that moral agents consider the non-contingent needs that contribute to your being able to live a life of value. For instance, the moral agent ought not to punch you if and because they realise, after deliberation, that this goes against what it means for you to live a life of value, whatever that is to you.

The second part – consistency with similar consideration for what all other dignity bearer's value – is new. It focuses on the dignity-bearer's deontic relations with others:

A has a right against B that B (does not) perform a particular action *unless* there are 'valid exemptions' to the right that 'restrict the scope' of the right (Zylberman 2022, 558).

This follows because all duties to consider others ought to be performed in a *holistic* network of relations. Consider your choice over whether or not to roast a chicken for dinner tonight. What you value only entails a liberty to roast a chicken insofar as it is not limited by the rights of others, but in this instance, it is limited by the chicken's interest in not being harmed, imprisoned, and killed. By considering the chicken, we make a balance in our evaluative judgments about the extent to which you and the chicken are achieving what a life of value is for each of you. Because the chicken is clearly at a far greater relative disadvantage, this leads us to conclude that the chicken has a substantive right not to be killed, which limits your own liberty to roast the chicken. The reasoning towards this claim is as follows: we consider both your specific interest in eating what you value eating (roast chicken) and the chicken's specific interest in not to being subjected to harmful treatment and death, and we realize that the chicken is at a far greater relative disadvantage in achieving what they value compared to you, so we conclude that the chicken has a substantive right not to be killed or farmed. Similarly, specifying the content of individual rights where the challenge of fulfilling them is harder also involves no direct rights conflict. In a circumstance of scarce resources, A's right to eat would be constrained by B's (and vice versa), as both have a limited right to available food.

If we compare this view with variability about rights, it might be thought that variability is the better view because it focuses on the deontic status of certain interests *from the outset*, whereas uniformity establishes the deontic status of interests only *after* considering the holistic network of interests. However, this would be a misrepresentation of the difference between uniformity and variability: neither view establishes that any sentient being has concrete rights until *after* the relevant process of comparison. This is because ‘the problem of specifying the content of a right [on uniformity] is the very same problem as that of balancing prima facie rights [on variability]’ (Shafer-Landau 1995, 215). Prima facie rights still entail a balance of interests, and despite claiming to be rights they do so without providing any explanation of the deontic nature of those interests, either. This is because ‘a prima facie right does not conclusively show that an action is morally impermissible since the non-absoluteness of this right allows it to be overridden by other moral reasons’ (Wellman 1995, 283). For instance, if we say that the chicken has a prima facie right not to be killed this does not mean the chicken has a concrete right not to be killed, not until we work out whether there are *more stringent* prima facie “rights” that conflict with the chicken’s prima facie “right” not to be killed. Additional consideration is required before the deontic status of a particular interest is established.¹⁰⁵

¹⁰⁵ A different line of objection contends that uniformity about rights lacks explanatory power and clear moral guidance (Judith Jarvis Thomson cited in Shafer-Landau 1995, 214; Wellman 1995, 281). As Shafer-Landau (1995, 214) summarises, we might specify a fundamental right only to find that ‘an unexpected scenario or tricky thought experiment presents itself where morality appears to require the right’s suspension?’ In such a case, the objection goes, ‘rather than allow a right to be permissibly infringed, the specificationist will be forced to draw another exception... And this shows that specificationists are basically engaged in post hoc patchwork, making rights ascriptions in a conclusory fashion’ (Shafer-Landau 1995, 214). As a result, the specificationist approach might seem to fail to explain ‘the deontic status of actions’ (Wellman 1995, 281), because it might appear that our reasoning happens the wrong way around – we move from evaluative judgements to the rights as our moral conclusions, rather than the rights helping to explain why there is a conflict in the first place, as they do on the prima facie view. Both Shafer-Landau and Wellman point us to a plausible reply to this objection: to simply admit the unproblematic truth of it. On the Hohfeldian jural logic a right is a ‘constellation of moral reasons’ (Wellman 1995, 282), including the interrelations between dignity-bearers and moral agents and the values of dignity-bearers. And certain conflict cases ‘can force a redrafting of a rights content’, but this does not make the approach one of post hoc patchwork. To the contrary, this is ‘familiar stuff’ comprising the ‘coherentist endeavour to attain wide reflective equilibrium’ (Shafer-Landau 1995, 214). On both views we engage in evaluative judgements about which moral reasons should take priority, but on the specificationist view those judgements are explicitly guiding us to *settle* on conclusions that indicate or establish rather than explain those relative positions, while giving meaning to the common-sense idea of a right as having absolute stringency. The *explanation* comes with the moral reasons, reasons which amount to rights in the process of evaluative judgements.

Given this, one of the benefits of adopting uniformity rather than variability is that it explains how a broader ‘moral system’ functions (Zylberman 2022, 558). It therefore adds something that is missing on variability about rights. This is because the specific rights of others *holistically* limit one’s own rights, and one own’s rights holistically limit others (Zylberman 2022, 563); you are entitled to as much consideration as anyone else, and where the deliberative procedure concludes moral agents should help others, this limits what help you have a right to. As a result, it is not that one being’s rights are *less important* than another’s because one being is more valuable than another. Instead, ‘when one right limits the scope of another, it is because such limitation is required by the *point* of organizing a system of morals’ (Zylberman 2022, 562). On my account, that point is the protection and promotion of individual dignity-bearers’ capacities to value, as conscious beings for whom leading a life of value *matters* to them.

This shifts the focus from variations in the stringency of rights (on variability) and onto the relationship between the fundamental right to consideration of one’s interest in leading a life of value, and that which determines the content of one’s specific rights: the things that a *particular* being values with their capacity to value, as well as their relationships with and consideration of other dignity-bearers. The purported problematic conclusions of unitarianism result from supposedly insoluble conflicts between the rights of dignity-bearers. However, in making this shift, this view also has the benefit of making most possible conflicts soluble.¹⁰⁶

4.7 Implications

In this section, I examine some conflicts and show how they might be solved on my account. I argue that while some of the conclusions my view results in are counterintuitive, they are not problematic, because they neither require us to equalise the chance of rescue between humans and animals and nor do they require us to implausibly prioritise animals over humans, as the argument against unitarianism presented in 4.2 contends that a view like mine will. Note that unlike the account I examined in section 4.3, my view achieves this while maintaining the tracking relationship between a sentient

It is not therefore the job of a right to explain deontic conclusions, but to establish them (Wellman 1995, 282).

¹⁰⁶ I say *most* because there are some cases where a coin flip may be a last resort.

being's value and their dignity, because it holds that all sentient beings have the same intrinsic value, and the same dignity.

First consider a relatively simple conflict that is not generally raised as an objection against unitarianism. For instance, imagine again that you come across a stray, hungry dog, but you had promised to have dinner with friend that evening. When fulfilling your general duty to consider both your friend and the dog, you must make a comparison about the normatively relevant interests. In doing so, you might realise that protecting one interest is of relative greater importance to one being than to the other – in this case, the dog's. So, you conclude that you ought to help the dog. In this case, your duty to keep your promise is *limited* by your duties to the dog. Notice it is not that the dog's fundamental right to consideration *overrides* your friend's, for both individuals featured in your deliberation. Nor is it that your promise is not *otherwise* binding. Instead, it is simply that your friend's specific right is *nonbinding* if and where your general duty to consider the dog results in the conclusion that you must prioritise the dog's interests, because your friend's specific right, like all rights, contains a list of exceptions.¹⁰⁷ As Cochrane argues, this is not some 'philosophical sleight of hand, but accords with how rights function in most legal regimes' (2013, 669–70).¹⁰⁸

This raises an important question I have so far not explicitly addressed: which interests are of greater relative importance? Recall from section 4.5 that I argued that dignity-bearers all share the same common standard: leading a life of value. Using this basis, we can make a comparison about the relative success or disadvantage two beings are having in leading a life of value to them. Making such a comparison helps us to determine which being's interests are of relative greater importance by allowing us to determine which being is experiencing greater relative success/disadvantage in leading a life of value to them. Importantly, we must do so by attempting, as far as possible, to make this evaluative judgement with the dignity-bearer's *own relative standards* in mind. This leads us to conclude that the dog's interest is of greater relative importance than your friends in the above example: breaking a promise is something we should try to avoid, but the dog's hunger

¹⁰⁷ Consideration of your friend might still result in *remedial* duties to your friend (Wellman 1995, 285–93; Zylberman 2022, 564–68).

¹⁰⁸ Cochrane (2013) endorses variability as an approach to resolving rights conflicts, but his point here stands regardless of which approach we adopt.

leaves them further from leading a life of value than breaking your promise to your friend leaves your friend from leading a life of value.

With this in mind, let us look at a couple of cases where problematic conclusions purportedly follow. First, consider the case of whether to rescue a pet or a person in a lifeboat scenario. Specifically, imagine that the person is a typical adult human and the pet is an adult dog. Both are happy and live generally good lives, but if you do not rescue them, they will drown. In this case, I argue that we are required to save the person, because they will experience a greater relative disadvantage in achieving the range of things they (can) value, than the pet by not being saved. Why? The reason is not because they are human *as such*, but because humans tend to value a greater range of things and so, relatively speaking, they are going to experience a greater relative disadvantage from not being saved. To see why, notice that you must start by considering all dignity-bearers' interests in leading lives of value equally. The pet and the person both value their lives. But we determine how to act by deliberating over who would be at the greatest relative disadvantage from the loss of their life. This will eventually mean limiting your duties. For instance, if the person's interest in leading a life of value is of greater relative importance than the pet's, then we ought to save the person. Saving the person limits the duties you have to save the pet, but the pet's interests were still originally *considered* in the initial steps of the procedure, so the limitation is justified. Our deliberation is likely to lead us to conclude that we should save the person over the pet, because persons generally value and develop long term plans, and this means that they value continued existence in order to achieve those long term plans (even if those plans are only vaguely articulated in our minds, we tend to project ourselves into the future and so value the *opportunity* to fulfil certain vaguely defined aspirations). In contrast, the interest that many nonhumans have in continued existence is (relatively speaking) much weaker: they value continued life, but not because they have extensive long-term plans (Cochrane 2012, 65–67). For the most part, nonhumans might be thought to value continued existence due to the possibility for pleasant experiences that continued existence provides. As such, we might say that we ought to save the person over the pet.

However, this should not be taken to mean that we should *always* save a person over a pet, because there are no variations in the stringency or number of fundamental rights.

Instead, who we conclude we should save is going to heavily depend on context. To be sure, some animals value continued existence quite heavily, particularly those such as elephants or dolphins with well-developed capacities for prudential reasoning. What's more, age and relative disadvantage in other areas should play a role in our considerations. For instance, it may be that we ought to save a young farm animal that has grown up on an industrial farm over an elderly person who has lived a long life. When comparing the relative disadvantage and success that each of these dignity-bearers have in leading a life that is of value to them, we can see that the farm animal will have experienced greater deprivation and obstruction. While such conflicts will undoubtedly be hard to solve, we ought not to settle for the easy answer of simply saving people over other animals, or indeed of saving 'higher' animals over 'lower' ones. Instead, what I have said above casts doubt on the idea that you should always save the human, because who you should save depends on who is at a greater relative disadvantage in living a life of value, and how valuable their life is to them. Importantly, however, this also does not commit you to flipping a coin, because it makes moral conflicts soluble by homing in on the *point* of organising a system of morals: protecting all dignity-bearers' interests in leading lives of value.

Second, consider a case we saw in section 4.2: whether to donate money to a scheme for supporting the health of local pigeons, or to alleviating poverty for human children. Here, our consideration of each sentient being's interests in leading a life of value is likely to say that we should favour the latter policy: human children are likely to experience far greater relative disadvantage from socioeconomic deprivation in the long run, than pigeons will from not having a health service. However, this conclusion is only *pro tanto*. Consider many other social policies that benefit humans, such as providing money for a school enrichment trip abroad. Pigeons are likely to experience a far greater relative disadvantage in leading a life that is of value to them in *not* having a healthcare scheme than children will from not having enrichment activities like these. And similar conclusions that favour nonhumans can be drawn for a range of different social policies. This follows because certain measures we can pursue to promote the ability of nonhuman animals to live lives that are of value to them are far more important in helping those nonhuman animals to live lives of value than measures designed to provide more marginal gains to humans living lives of value. Again, this is likely to produce some tricky cases, but many of these

can be resolved by either by adopting a compromise, or in cases of genuine conflict, by ensuring we favour whoever faces the greater relative disadvantage or otherwise resort to a fair decision-making procedure. For instance, ought we to pursue a scheme that diverts resources to a healthcare system for city-dwelling animals, or should we pursue social policies that help to alleviate mental health challenges faced by humans? In cases like these, we can often compromise by putting some of the money towards each scheme. However, imagine that the two causes are mutually exclusive – perhaps the money for each to have a *sufficient* impact is the total money we have available. In this case, I am not certain which group will face the greater relative disadvantage – we can imagine that either might, depending on the context. Taking those contextual factors, such as the intensity of the mental health challenges faced by humans, or the severity of the health issues faced by the nonhumans, into account will allow us to come to a decision. If it still seems that each party faces an equal disadvantage, then we might resort to a fair decision-making procedure (such as a coin flip) as a last resort. However, I think that my view shows that cases in which we have to resort to this measure will be rare, because there are often likely to be appropriate differences between the relative disadvantages that different (groups of) beings face.

These conclusions are not objectionably counterintuitive, but they may be inconvenient, either because they mean we must rethink the position of nonhumans in our societies, or because they force us to question *Speciesist* intuitions.

Start with the latter form of revisionism. My view has assigned no importance to species membership, so this may result in conclusions that some find dissatisfying. For instance, compare the following two cases. First, the decision over whether to save a puppy or a person with one week to live. Second, the decision over whether to save an infant human or a person with one week to live. On deontic unitarianism, we conclude that we ought to save the puppy and the infant in both cases – despite the fact that for some this conclusion in the first case will be counterintuitive. Without the scaffolding of a hierarchy of moral status, though, this makes sense: hierarchical views take the interests of certain

“higher” animals to have more weight, but if we reject absolutism about value then doing so is not justified.¹⁰⁹

Indeed, not endorsing absolutism is what makes my deontic unitarianism a substantively egalitarian view.¹¹⁰ My view holds that it is only differences in relative disadvantage/success in achieving what we value that have moral relevance. Nobody’s interest is of weightier value than anyone else’s. While my view is therefore likely to result in some conclusions that hierarchism would also endorse – such as ending factory farming and banning hunting – it also results in more revolutionary implications hierarchism would not endorse. For instance, we ought to allocate considerable resources to programs supporting nonhuman needs such as a network of veterinary hospitals, or expansive re-wilding initiatives, even at a cost to services that would benefit badly off (but *relatively* less worse off) humans. Similarly, we ought to divert research programs towards understanding how to improve nonhuman lives, even at a cost to current research practices that will improve human life, because current research focuses too greatly on human interests. However, despite the *costs* these practices will have to human interests, I have argued that none of this will be *problematic*, because it only involves prioritising factors that contribute to a greater relative disadvantage for nonhumans over those that contribute to a lesser relative disadvantage for humans (and vice versa) – not in equalising those interests *tout court*.

Of course, this chapter has not given these practical upshots a full exploration and I do not have the space to do so in this thesis. Nonetheless, let me finish by revisiting the four ways that I suggested we can know when a dignity-bearer’s interest in leading a life of value has *not* been considered adequately, to provide some further preliminary thoughts.

¹⁰⁹ Compare this with hierarchism about moral status, where we face the risk of double counting interests (Brouwer and van der Deijl 2020, 354). If values are compared against the same absolute standard regardless of whose values they are, focusing on the interests at stake alone *already* accounts for differences in values between dignity-bearers. But on hierarchism ‘the same psychological capacities that drive this difference *also* count towards a difference in moral status between the human and the animal’ (Brouwer and van der Deijl 2020, 354; emphasis added). This risk does not follow on my view, because only one thing matters: what each dignity-bearer values.

¹¹⁰ This causes my account to differ starkly from other unitarian views, such as (Cochrane 2018; Singer 1993). As I discussed in section 4.3, even though Cochrane grants purported equality to all interests, nonhuman interests are less *weighty* than human interests and their rights are therefore less stringent (as a result of variability), resulting in a hierarchy that gives up on the tracking relationship between a being’s value and their dignity.

The first of these was developing a list of presumptive legal rights for all dignity-bearers. So, the first general implication of substantive equality is respecting *all* dignity-bearers' legal rights, depending on how our collective reasonable consideration determines them. In conflict cases, this means ensuring that whatever solution we come to, it is a solution that at the very least (and if possible), does not put *further* dignity-bearers in danger. For instance, we may be able to save humans in a pandemic, by experimenting on nonhumans. But we should not do so, because this would violate the presumptive legal rights of those nonhumans, and we can explain the moral significance of this through deliberation: the nonhumans' interests are of greater relative importance than the humans.¹¹¹ The second and third ways can be addressed in tandem. These stated that we should provide representation and recognition. Respectively, in egalitarian terms, this means equally representing nonhuman interests in public policy decisions by conferring with experts on animal behaviour and trustees of their interests (as argued by Cochrane (2018, 43–47)) and it means ensuring we attempt to offset, as much as possible, for anthropocentric biases that discount the importance of nonhuman interests. This means including communication with local communities and, if reasonable, the animals themselves, as dialogical stakeholders. It means engaging in affirmative action to ensure these non-anthropocentric perspectives are awarded sufficient importance, just as we accept that we ought to in the case of gender and race. This both reflects and gives precise meaning to the widespread view in ethics that equal consideration need not imply equal treatment (Cochrane 2018, 24–25), because equal consideration might necessarily imply *differential* treatment *in order to* meet this ideal of substantive dignitarian equality: we may sometimes have to use significant resources to support nonhumans, at some sacrifice to humans, in order to achieve this ideal. Finally, I also argued that consideration requires reassessment. This makes the commitment to substantive equality *robust*. We have duties to continually consider the myriad of ways our political and social practices can be improved for nonhumans in balance with our consideration of humans.¹¹²

¹¹¹ This presumptive legal right might not hold in particular extreme circumstances. As I discuss further in the next chapter (section 5.4), part of the benefit of a consideration approach is that it can accommodate a form of 'threshold deontology' (Alexander and Moore 2021). Nonetheless, we ought to approach such cases with *consideration* of the impact of individual interests in leading lives of value that violating the presumptive legal right in question will have.

¹¹² One objection to the above might be that this will put the lives of vulnerable humans at *greater* risk (Cupp in Fasel and Butler 2023, 107–9). In other words, it may seem that support for

4.8 Conclusion

My account of dignity overcomes the argument that animals should be excluded as bearers of equal dignity. In other words, unitarianism is more plausible than many think. I identified two theses that underlie standard hierarchism – absolutism and variability. However, unitarianism need not be premised on these; two other theses give rise to a plausible deontic unitarianism that does not result in counterintuitive implications. First, relativism about value holds that comparisons of value should be made against a standard that is relative to the being in question. Second, uniformity about rights holds that all rights are of equal stringency. It follows that a plausible deontic unitarianism can endorse the view that there is a single fundamental right to consideration of the interest in leading a life of value. When conflicts arise, we ought to favour humans in some cases and other creatures in other cases – and when we do it is because of the *specific* things those beings can and do value, and the relative disadvantages those beings face in achieving those things. Nonetheless, much remains open. While I have unsettled the view that we should prioritise human lives *tout court*, I have not offered an account of when exactly such choices should favour nonhumans. But I have provided a framework (which I develop in the next chapter) for making these kinds of assessments. If my arguments follow, an account of dignity that includes nonhumans will have the resources to answer these questions – even if it results in some revisionist conclusions. Accordingly, there is a single equal dignity possessed by humans and nonhumans – a sentient dignity without hierarchy.

nonhuman services will be incompatible with supporting vulnerable humans insofar as it takes funds away from those humans. There are two things to bear in mind here. First, if this were to follow, the vulnerable humans affected by supporting nonhumans would necessarily be of a *lower* relative degree of vulnerability and disadvantage than the vulnerable nonhumans. Otherwise, we ought not support the vulnerable non-humans. Given this, the idea that it is morally problematic would presumably rely on speciesist intuitions. Second, we ought to take into account the added moral implications of removing existing support, as opposed to providing support that was not there in the first place. In other words, it may be that structural and welfare-based factors require us to maintain existing practices, even if funds are required elsewhere for more urgent needs. Finally, while this kind of conflict between two vulnerable groups is possible, it is important to point out that this is not *necessarily* true and also avoidable in most contexts. The question here is *why* the situation is such that the funds have to be diverted from supporting vulnerable humans in the first place. Have all available alternatives been tried? Given there are likely to be sufficient resources elsewhere to support *both* measures (for humans and non-humans), resources should not be pooled from existing programmes, until alternatives have been explored and pursued.

On the Bright Side of Rights

5.1 Introduction

If all animals with the capacity to value have dignity and therefore a right to consideration, then there are a number of worries about the so-called “dark side” of rights: their *claimability* (O’Neill 2005; Tomalty 2014). Concerns about claimability focus on the role of the agent who bears the duties correlative to the purported right. A right is claimable if and only if the agents who have the correlative duties to protect, promote or respect the right are clearly determined (Collins 2016; O’Neill 2005; Tomalty 2014). For instance, it might seem that minks have claimable rights *not* to be farmed for their fur. The correlative duty not to farm minks falls on all agents. Yet we might doubt that minks *also* have claimable rights to be provided with food and water in circumstances of scarce resources, precisely because it is not clear who exactly bears the duty to provide the resources. Certainly, non-claimable duties might exist to support the minks, but it may seem inaccurate to say these duties correlate with claimable rights.

This *claimability objection* produces a ‘dark side’ for theories of rights (O’Neill 2005), because it implies that not all rights are bona fide rights. Rights must be claimable to provide normative implications that are distinct from other moral properties (Collins 2016; Tomalty 2014). In this chapter, I specify and defend a rights framework that I argue meets the claimability objection, whilst including nonhuman animals. On my view, the correlative duty to *all* fundamental rights is to enact a particular deliberative procedure and follow the measures that the results of deliberation dictate you ought to. I have already argued that the fundamental grounds of this fundamental right is the interest in leading a life of value. I now develop what duties follow on from this. My approach is unique insofar as it factors in considerations about dignity, which helps to characterise what the deliberative procedure should look like: it focuses on the capacity to value, which gives rise to dignity in the first place, respects the intrinsic worth of dignity-bearers, and

awards them equal weight. Only a few theorists have so far outlined a similar view of rights, and none have done so in this comprehensive way.¹¹³

In section 2 I start by summarising recent work on claimability to provide a novel characterisation of the conditions restricting the claimability of a right.¹¹⁴ In order for rights to have the distinct normative implications of justified enforcement, restitution and resentment they must fulfil four conditions: the correlative duties should be *prescriptively binding against determinate agents* (i), not *over-burdensome* (ii), *non-discretionary* (iii) and, and, while not necessary for all rights to be claimable, many rights should also be *pre-institutional* for claimability to kick in (iv). A right is prescriptively binding against a determinate agent if it requires a specific collective or individual agent to act in a particular way. It is not overburdensome if the duties it imposes are not overly costly. It is nondiscretionary if it guides the agent about how they should act. And, finally, it is pre-institutional if it exists even if there are no institutional arrangements.

In section 3 I use this characterisation to explain why a version of the claimability objection in fact has force against nearly all rights (Shue 2020), not only socio-economic rights, as it is often claimed. All rights have positively claimable instances, and it is only these instances that make rights more than mere aspirations or requests. If this follows, then the claimability objection seems to produce a rather large shadow.

The bright side is that if claimable rights are thought of in terms of consideration, rather than as direct requirements for particular treatment, their normative uniqueness can be well-maintained. In section 4, I explain why. Drawing on Collins' (2016) work, I argue the correlative duty to a claimable right is to enact a particular deliberative procedure that is focused on determining what, if anything, one should plausibly do to respect, protect, or promote another's interest. While Collins' (2016) account provides a good starting point, it both focuses solely on socioeconomic rights and is highly general and abstract, making it radically incomplete: if the claimability objection applies against all rights, then the

¹¹³ Collins (2016) has proposed this view solely in the case of socioeconomic rights (though she indicates support for the idea that it could be extended (Collins 2016, 704)), and it has similarity to proposals made by both Gilibert (2010, 397–98) and Stemplowska (2009, 2022).

¹¹⁴ While some deny that rights should be claimable (Capriati 2018; Kahn 2019; Tasioulas 2007), I explain through sections 5.2-5.4, that if the claimability conditions *can* be satisfied, there is little reason left to do so.

consideration-rights view should be extended and developed to make sense of the claimability of all rights, too.

To make sense of this, I factor in my arguments about dignity from previous chapters.¹¹⁵ First, including my theory of what *grounds* our dignity makes my account of consideration-rights even more non-discretionary. My account tells us exactly what we should be considering when we engage in the deliberative procedure: the interests *in leading a life of value* associated with the capacity to value. Second, conventional claims about what it means to have a rights-holding status help to characterise what factors should go *into* the deliberative procedure. The procedure should respect the principle of the separateness of individuals, and, as I argued in the previous chapter, extend consideration on an equal footing. As I argue, these developments of the consideration-rights view make an account of consideration-rights all the more compelling, increasing its transparency and extending its explanatory power.

In sections 5, I cash out some of the implications that follow on this view. While *theoretically* unfamiliar, I argue this theory makes sense of the everyday practice of engaging in moral reasoning, while vindicating the claimability of rights. Not only can a theory of rights be claimable, but it can be claimable *whilst* including nonhuman animals.

5.2 The Conditions for Claimability

If someone has a claimable right, then a specific agent or agents are required to act in certain specific ways towards them and their interests. This follows insofar as the right is in a tight correlative relationship with the agent's duties (Magnell 2011). This relationship makes claimable rights distinct from other normative properties. To illustrate, if I owe you some money then you have a direct right that I repay my debt and I am the specific agent who bears the duty of repaying the debt.

The *claimability objection* arises where this relationship between rights and duties breaks down; the right cannot be *claimed* because the duty is insufficiently determined in some way. If a right is not claimable it will lack certain unique normative properties (Cranston

¹¹⁵ While Collins (2016, 704) account only applies to socioeconomic rights, she also indicates support for the idea that the consideration approach could be extended to other kinds of right.

1973, 66–67; O’Neill 1996, chap. 5, 2005; Tomalty 2014).¹¹⁶ *Claimable* rights presuppose three practical implications: the duties correlative to a right are enforceable; the rights-holder (or their representative) are justified in feeling *resentment* to specific agents in cases where there is a failure to fulfil the right; and *restitution* can be demanded if such failure occurs (Tomalty 2014, 6). These three implications can be thought of as practical *desiderata* for maintaining the claimability of rights; we should maintain the claimability of rights *so that* we can make use of the unique normative content that these implications provide. It need not be the case that all three of these implication must follow in all contexts for a right to be a bona fide claimable right, and it may be that we can justify some of these things in other ways (Buchanan 1984). However, only bona fide claimable rights allow for the possibility that these three implications follow in principle, irrespective of other moral considerations.

I want to refrain from saying that claimability is an *existence condition* on rights. Not only do I lack the space to defend this stronger statement here, but it forecloses the possibility of non-claimable rights having some kind of normative value. Instead, I suggest that claimability is a *distinctly* valuable feature of rights, even if it is not a necessary one (Etninson 2013, 479), because only claimable rights give rise to the above three features. If a right is not claimable, I do not therefore hold that it does not exist – instead, it simply lacks the required determinacy to give rise to justified enforceability, restitution, or resentment.

To achieve these practical desiderata, the duties correlative to a claimable right must be normatively distinct in four necessary and jointly sufficient ways: they must be *prescriptively binding against determinate agents*, *not over-burdensome*, and *non-discretionary*, and, while not necessary for all rights to be claimable, many rights should also be *pre-institutional* for claimability to kick in. Let me specify each of these in further detail.

- i) Rights ought to be *prescriptively binding protections* determinate agents must fulfil.

This entails that each rights-holder is owed particular treatment from a specific agent or agents (Collins 2016, 702). At least one agent needs to be duty-bound to respect, protect or promote your interests in order for the right grounded by your interest to be

¹¹⁶ This is consistent with holding that there is a degree of asymmetry between rights and duties (Etninson 2013, 465). Imperfect duties to perform general action you owe to no one *in particular*, for instance, do not correlate with rights.

‘meaningful’ (Fornaroli 2022). This makes the right directed: we can point to which agents are duty-bound to treat specific individuals in the relevant way. If I owe you some money, you can point to *me* as the specific individual who owes you the duty of repaying a debt. The right is prescriptively binding if fulfilling it is a normative requirement on a certain agent.

Specifying this much already allows us to see *why* rights have distinct practical implications. Since the duty is directed and prescriptively binding, it becomes possible in principle to ‘use threat or coercion’ to enforce the protection, promotion or respect of the interest that grounds the right (Collins 2016, 702), and it also makes it appropriate to demand restitution and to feel resentment if the right is violated. Without duties being *directed* it is not clear what should be enforced, or what the appropriate restitution would be, because undirected duties lack specific duty-bearers. Similarly, while some negative feeling for a failure to fulfil undirected or imperfect duties may be appropriate, it is also not obvious that resentment would be. Resentment is a kind of *directed* indignation at the unjust treatment one has received (Tomalty 2014, 6). We feel resentment *towards* others, and so this implies that others must have owed us something they failed to provide. While the normative story does not end with rights, *the point* of having a right would be ‘eroded’ if they did not have this distinctiveness (O’Neill 2005, 430).

Not everyone endorses this first condition (Capriati 2018; Kahn 2019; Tasioulas 2007). This has appeal if endorsing claimability requires giving up on socioeconomic “rights”, as O’Neill (2005) has argued. Tasioulas, for instance, holds that requiring that rights must be claimable would mean ‘demoting so-called welfare rights from the ranks of bona fide human rights’ (Tasioulas 2010, 656). I discuss this idea further in section 5.3. In section 5.4 I respond by arguing that this does not mean giving up on all positive rights. Accordingly, I take there to be little plausible reason to surrender the distinctiveness of claimable rights.

- ii) The duty correlative to a right should not be over-burdensome (McElwee 2017).

Duties can be overly costly in a range of ways that prevent them from being claimable. For instance, imagine that it is possible for you to provide a sandwich every day for a week to every homeless person in your home city, but the cost would be your entire

annual salary. In this and similar cases, even if a particular action is morally desirable, it might nonetheless not be morally obligatory in a *claimable* sense, ‘simply because the cost to the agent is too high’ (McElwee 2017, 93–94).¹¹⁷ Claimable duties must therefore incorporate a principle of proportionate reasonable cost (though I shall not specify what principle here).

iii) The duties correlative to rights should be sufficiently *nondiscretionary* (Rettig 2020).

To be claimable, the duties correlative to a right should provide some ‘clear guidance on what to do’ to fulfil the right (Rettig 2020, 329). Returning to the debt example, if I owe you some money, then it is clear enough that I should repay my debt. This is sufficient to tell me what I should do, but it might still allow some degree of latitude in how I go about doing it: I might send you a cheque or give you the money in cash. *Some* degree of latitude will therefore be acceptable, but a right can become unclaimable if it allows for *too much* discretion.

Two reflections help to clarify why. First, a right will be insufficiently nondiscretionary if it is focused *only* on achieving a state-of-affairs rather than also providing guidance on what particular actions should be taken or treatment provided, by whom and how (Rettig 2020, 329–30). For instance, we might conceive of a right to food *only* as a requirement to achieve a situation where rights-holders have enough food, rather than as rights to *receive* food from particular duty-bearers. The idea behind the former framing is that ‘rights are focused on what people should have, not on what people should do’ (Rettig 2020, 329). This understanding of rights might, for instance, focus on what social structures should be in place for a given claim to be upheld (Kahn 2019). On this conception, a right to food ought to be solely understood as a demand to bring about the social structures that would ensure individuals have enough food. However, this understanding of rights fails to be action guiding precisely because it gives up on a strict correlative relationship between rights and duties (Kahn 2019, 864). The content of a right is mutually determined

¹¹⁷ This kind of objection is sometimes also an instance of what McElwee (2017, 93) calls a ‘Wrong Overall Ranking Objection’, which is a distinct kind of objection from an over-demandingness objection. On a Wrong Overall Ranking Objection, an action is not morally obligatory if the cost to the agent proportionally outweighs the cost to the dignity-bearer. This objection is subtly distinct from the over-burdensomeness objection because on the latter we might have ranked the costs and benefits of action correctly, but the action might still be too demanding for the agent.

alongside the content of the correlative duty and that is why rights must be sufficiently action-guiding. If we only have duties to bring about *states-of-affairs* then those duties will fail to achieve the first two conditions on claimability, because it will not be clear against whom specifically any of us has a claim, and those “claims” could easily become overburdensome. Hence, in order to be claimable, a right must also correlate with duties to act in certain ways (Rettig 2020, 330), even if this allows for a degree of discretion.¹¹⁸

Second, rights will be insufficiently nondiscretionary if they are taken to correlate with imperfect duties. A duty is perfect if it requires certain specific actions whereas it is imperfect if it is directed at a general goal. Imperfect duties arguably exist, irrespective of their claimability. However, some have suggested that imperfect duties can help us to address the claimability problem. According to Stemplowska (2009, 2022), for instance, there are rights to socioeconomic goods which correlate with an imperfect duty to provide those goods. The *individual* duty correlative to these socioeconomic rights is to take ‘*some reasonable steps towards* providing others with the object of those socioeconomic rights’ (Stemplowska 2022, 208; emphasis added). This might appear to meet the first two conditions. The duty can fall on all reasonable agents, and it is not over-burdensome because it is left down to individual discretion how one fulfils their socioeconomic duties.

While this approach produces the ‘seeds of a... sound and morally satisfying solution to the claimability problem’ (Collins 2016, 708–9), it is ‘insufficiently certain and specific’ to fully explain the claimability of rights (Collins 2016, 709) – precisely because it contains too much latitude. It follows that ‘imperfect duties do not imply correlative claims’ (Gilbert 2010, 392). On the one hand, because *everyone* is responsible for protecting, promoting, or respecting an individual’s rights, it is unclear who *in particular* should protect promote or respect each individuals’ rights. To see this, notice that it would be a moral outrage to say that those living in poverty have duties to fulfil others socioeconomic rights. Similarly, it would be unfair to say that you bear the same amount of responsibility as Jeff Bezos, given your vastly different incomes. Stemplowska’s approach must still tell us which of us bear what degree of responsibility, and if not, then it is insufficiently

¹¹⁸ This does not require us to list all of the specific actions that are legitimate ways of fulfilling the right in the statement of the right. Instead, the state of affairs to bring about is a general range of actions that involve the fulfilment of the right. The point here is that the action/treatment must play *some* role in the statement of the claimable state of affairs.

nondiscretionary (Rettig 2020, 331). On the other hand, even if this problem can be overcome, it is still not clear what a specific imperfect duty-bearer should do to fulfil their duty to take reasonable steps towards providing others with socioeconomic goods. There are a whole range of things that may satisfy this criteria. Because of this, the normative implications of a right cannot follow for imperfect duties: we cannot force others to do something if it is not clear what they should do, and we cannot spell out what restitution is owed nor whether resentment is justified if it is not obvious when individuals have failed to do what they should do.

iv) Finally, each of us should be owed the treatment required by claimable rights *‘independently of specific institutional arrangements’* (Collins 2016, 702).

One way to fulfil the claimability conditions at the level of *legal* rights is to have specific institutions hold the duties or determine who holds what duties (C. Beitz 2009; Tomalty 2014, 13–14). For instance, we might claim that there is a duty of states to ensure citizens’ rights to sufficient healthcare. In this sense, rights might have legal institutionalisation in at least two ways (Etinson 2013, 475–78): through *special conventions* such as the rights of the child, and through attempts to set judicial precedent by *applying* the rights set out in international legal covenants. This kind of approach succeeds in using human rights practice as the ‘inspiration’ for a theory of human rights which are claimable against specific states (C. Beitz 2009; Etinson 2013, 478; Raz 2010).

However, this only solves the claimability problem in cases where institutional arrangements actually exist, since it focuses on *secondary* duties relying on the institutions. It does not show us that there are *primary* duties correlating with *morally* claimable rights, absent the institutions (O’Neill 1996, 131). In other words, where there are no institutional arrangements in place, either there are no claimable (moral) rights, or the claimability problem remains (Etinson 2013, 468).

But why think that we should rely on a pre-institutional conception of moral rights? Moral rights must be justified *pre-institutionally* in order for them to obtain a solid foundation. If moral rights obtain only because institutions specify them, they become contingent requirements, without normative force outside of those institutional arrangements. The social convention might change, denying some rights to certain groups or even dissolving

all rights entirely. In such cases, we would have no means to say that your rights will have been violated. In contrast, if rights are pre-institutional, then we can still claim that the distinct normative implications associated with rights can follow. In a context where there are no institutional arrangements, or where institutional stipulations are not relevant to a specific rights issue, rights-bearers can still demand specific treatment and *force* others to provide it or feel justified resentment and claim restitution if they do not. Not only, but these claims are still consistent with the idea that human rights can be specified *further* by legal regimes. In fact, the approach I eventually endorse helps to explain what goes on in the process by which law gives ‘practical expression to human rights’ by specifying them and applying them to particular cases (Etinson 2013, 478).

Now, you might argue that we can derive a justification for either enforcement, resentment, or restitution in cases like the above *without* rights (Buchanan 1984). For instance, if it promotes better outcomes we might be justified in enforcing someone to rescue another (Buchanan 1984, 68). This helps to maintain some of the distinct normative implications that follow on rights, but it will be lacking in at least three respects. First, while we might derive an external justification for enforcement and restitution, I do not think it will be possible to find a similar kind of justification for resentment. Rather, resentment seems unique: because of the distinctiveness of the rights-relationship, justified resentment is only possible if you do not get what you are *owed*. Resentment implies a justified entitlement. Second, a right presupposes a justification for at least one, but in principle all three of the implications that follow from its possession. We need not refer to other moral considerations to justify those implications. As a result, we can force someone to help us rescue another *even if* it doesn’t promote better outcomes or contribute towards some other moral consideration. Only rights *presuppose* that (in principle) all three normative implications should follow irrespectively, and they presuppose this only if they are claimable.

5.3 The Dark Side of Rights

Because claimable rights must fulfil the above conditions, they have been thought to possess a ‘dark side’ (O’Neill 2005): not all would-be “rights” are bona fide claimable rights, since not all rights *are* claimable. Traditionally, this objection is only made against socioeconomic (or “welfare” rights) (Collins 2016; O’Neill 2005). However, I argue that

most, if not all, rights face a version of the claimability objection, since what is valuable and important about the claimability of most rights are the claimable duties they correlate with. This is important, because it shows why *all* rights should be re-characterised in the way I suggest below.

Philosophers tend to hold that we can distinguish between socioeconomic and civil-political rights in terms of the kinds of requirements you can be held to perform (Collins 2016, 703–4; O’Neill 2005). Acts of *commission* tend to be necessary to meet others’ socioeconomic needs, such as providing them with food, or healthcare, whereas acts of *omission* mean refraining from action, such as harming another. Those pressing the claimability objection argue that civil-political rights can be claimed against any agent at any time, because such rights only require acts of omission. The thought here is that you, as a moral agent, can easily be held under an infinite number of duties requiring you *not* to do things, such as harm others, since ‘we can know who violates a liberty [i.e., civil-political] right without any allocation of obligations’ (O’Neill 2005, 428). So, it can be easily asserted that such rights are claimable: they are prescriptively binding against determinate agents, not over-burdensome, pre-institutional and nondiscretionary. In contrast, socioeconomic rights seem, on first sight, to fail on every one of these counts, because ‘we cannot tell who violates a right to goods or services unless obligations have been allocated’ (O’Neill 2005, 428).

A version of the claimability objection has force against both civil-political *and* socioeconomic rights because the *conceptual distinction* between acts of omission and commission does not track the *normative* distinction between socioeconomic and civil-political rights (Shue 2020, chap. 2). In fact, nearly all rights will have commissive *and* omissive elements, and it is the commissive element that gives the right its unique normative power, making the claimability of rights valuable and important.

To start, consider why most rights have both commissive and omissive elements. In many contexts, the duties we have with regards to others’ socioeconomic needs are straightforward: to protect, respect and even promote most of the socioeconomic interests of others all you must do is avoid undermining their socioeconomic interests – a simple act of omission (Shue 2020, 55). The other side of the story is the commissive element of civil-political rights. Many such rights depend on specific institutions (Shue

2020, 38–39). So, most civil-political rights are rights *to* positive and claimable duties, duties often held by the state and its citizens. Take the right to vote, a typical example of a civil-political right. Your right to vote clearly requires making claims on other agents: voting necessitates a huge amount of state apparatus including, for example, thousands of polling stations, volunteers/paid workers to register voters, facilities to count the votes and legal mechanisms for the smooth transition of democratic power. Your right to vote does not therefore require merely that others do not interfere with you, instead a portion of the taxes that citizens pay goes towards ensuring that this right is protected and promoted.

Of course, we might accommodate the above by simply adjusting the distinction between socioeconomic and civil-political rights. Civil-political rights would be all and only freedoms from the interference of others. For instance, we might maintain the ideal of equal votes for all, but this would no longer be considered a *claimable* right, because it is not something that meets the four conditions above. On this re-characterization of rights, the domain of actions that are bona fide claimable as morally obligatory will have vastly shrunk. If truly claimable rights are only correlative to actions that are *purely* omissive, then there will be very few rights. This might give us reason to give up on claimability entirely, as Tasioulas (2007) suggests. However, if claimable rights only require acts of omission, and not acts of *commission*, then they also lose their distinctiveness. In other words, we can turn the claimability objection on its head: without the commissive element, rights will no longer attain the unique practical desiderata that make them normatively distinct.

As we saw in the previous section, claimable rights presuppose enforceability, and entitle us (or a representative) to demand restitution and to feel justified resentment. These three implications follow on from what makes claimable rights distinct; without them, claimable rights do not have significant difference from other normative properties. It is because of this that *all* claimable rights must have a commissive element (Shue 2020), including even the most narrowly conceived liberty right. Take the right to physical security, a right most likely to only require acts of omission. While *you* can ensure that you do not violate anyone's right to physical security, 'it is impossible to protect anyone's rights to physical security without taking, or making payments toward the taking of, a wide range of positive

actions' (Shue 2020, 37). That is, for this right to be protected there must be institutional arrangements that enforce it, and which provide restitution for the violation of it. Imagine, for instance, that you are in the pub with friends when someone walks in and begins to beat up a man on the table next to yours. You are not violating the victim's right to physical security by sitting there and doing nothing, but the attacker is by hitting their victim. In this case, it is plausible to think that the victim's right to physical security includes a claimable element against you and anyone else in the room to have their physical security enforced. You *have duties* to call for help and/or to pull the attacker off. What's more, the victim has a remedial right to demand restitution from the attacker, that the state (or others) might enforce. Both of these require making claims on specific duty bearers: you, other people in the pub, and the state.

To respond to this, an opponent might suggest that we should think of the bare right to non-interference as distinct from the right to receive protection in the case of interference. As Shue (2020, 38) puts it, 'according to this distinction, rights to physical security are negative, requiring others only to refrain from assaults, while rights-to-be-protected-against-assaults-upon-physical-security are positive, requiring others to take positive steps to prevent assaults.' If this follows, then it would be true to say that some claimable rights *only* have omissive elements – those rights which *only* require us to refrain from performing certain actions – and these rights would not face a version of the claimability objection.

The trouble with this response is that possessing a "claimable" right no longer presupposes two of the three normative implications that make claimable rights distinct. Bare rights to non-interference still imply that *one* of the three implications will follow: the right will still justify a feeling of resentment on behalf of the rights-holder, since no act of commission is required for the rights-holder themselves to express this emotion. However, if this is what is valuable and important about a claimable right, then a bare right to non-interference lacks the normative value and importance we associate with claimable rights: it cannot presuppose enforcement or restitution without the possibility of enforcement and restitution.

For these reasons, I share Shue's doubt that a distinction holds between a bare right to non-interference and the right to protection/restitution in cases of violations of non-

interference. Rather, if claimable rights presuppose that all three normative implications can follow, then this would speak in favour of there being a single right complete with their commissive elements, not two rights – one to omission and the other to protection. If this is true, it would follow that *all* rights face a version of the claimability objection.

However, let us concede for the moment that there are two distinct rights and that the right to bare non-interference is indeed the only right not faced with a version of the claimability objection. If true, then this puts into question the idea that claimable rights must in principle imply justified enforcement and restitution. Rather, claimable rights *may* imply these things, but there is at least one case in which they clearly do not. This conclusion does not seem to be damaging to my argument, though. I have said that enforcement, restitution, and resentment are *desiderata* for why we might want to achieve an account of claimability. Claimability, on my view, is not necessarily an existence condition on rights. Instead, a right being claimable is valuable and important *only* insofar as it has these three implications in principle. We might therefore deny that enforcement and restitution are presuppositions of a claimable right, but doing so would prevent us from justifying these normative properties *unless* they contribute to another moral consideration. The dark side of rights therefore casts a rather large shadow: either we should give up on the possibility that most rights are claimable, and thus have the distinctive normative implications outlined above, or, as I shall argue in the next section, we ought to rethink the nature of what it means to have a claimable right.

5.4 On the Bright Side of Claimability

For the most part, theorists have responded to the claimability objection by either reconceiving rights solely in *political* terms, thus giving up on the pre-institutional nature of rights (C. Beitz 2009; Raz 2010; Tomalty 2014), or they have otherwise weakened claimability by rethinking the correlative duties (Capriati 2018; Stemplowska 2009; Tasioulas 2007). In the remainder of this chapter, I defend and develop a third option that fully vindicates the claimability of moral rights – the *consideration view* of rights.¹¹⁹ The general idea is the following: there is a single fundamental right correlating with a single fundamental duty *to engage in a deliberative procedure, and to act according to the conclusions of the*

¹¹⁹ Collins (2016) has proposed this view solely in the case of socioeconomic rights, and it has similarity to proposals made by both Gilibert (2010, 397–98) and Stemplowska (2009, 2022).

procedure. I draw this view from Collins (2016), nonetheless Collins' description of the procedure is highly general and abstract, giving little practical guidance to actual agents. Her account is thus radically incomplete. I will show how including an account of dignity can provide important guidance to agents and can specify the procedure in interesting and plausible ways. In doing so, I strengthen and develop current consideration views about rights. This produces a more transparent and comprehensive account which matches rights up with their correlative duties for *all* dignity-bearers, human and nonhuman.

There are two steps to carrying out the duty correlative to a *right to consideration*:

- A. First, the agent is required to enact 'epistemically reasonable deliberation' that leads them to form 'an epistemically reasonable belief' about what, if anything, they should do to support the interests of claimants (Collins 2016, 710–11). For instance, take the needs of the homeless in your home city. Your deliberation about what to do to help these people should be directed towards *reasonably* determining what measures you should take to support their interests.
- B. At the second stage, after having undergone this deliberation, you now have duties to those you conclude you owe particular measures, to actually take the relevant measures to help further, protect, or secure the provision of the interests for the claimant (Collins 2016, 711). These are duties directed at *the particular claimants* who you conclude you should support. The duty to deliberate is not therefore empty – it requires action as a result of the deliberation.

In other words, duty-bearers must deliberate over what they can do to protect, promote, and respect individual interests. This duty to deliberate is claimable: it is prescriptively binding against *every* possible agent outside of prior institutional arrangements, and by specifying the steps in the deliberative procedure it is both nondiscretionary and avoids being over-burdensome. This revises what it means to possess a right, but as we shall see, in doing so it provides us with a solution to the claimability objection. To achieve a clearer picture, I want to fill in this theory with reflections drawn from my account of dignity. Collins (2016) provides several useful guiding principles for deliberation, some of which I will draw on, but since an account of dignity is normally implicit in an account of rights, drawing on my theory of dignity will allow me to profitably develop her view.

As we have seen, my view is that the most plausible basis for dignity is valenced sentience. As I understand it, valenced sentience comprises a capacity to value, meaning that an individual's ends can be advanced or obstructed, and they experience the advancement or obstruction of those ends through changes in their modifiable mental states. Knowing the basis of dignity already helps us out considerably. If it is the capacity to value that causes a being to have a dignity in the first place, then it is protecting, promoting, and respecting the ways that individuals use their capacity to value that is morally relevant: living a life that is of value to the individual that lives it. This allows us to be more specific about the deliberation required at the first stage (A): in forming a “reasonable” belief, agents should be working out what they can do to bring bearers of dignity closer to achieving what they value by protecting, promoting, and respecting the things those beings value.¹²⁰ This focus on the capacity to value incorporates a sensitivity to the *particular* interests of the beings in question.

First, reasonable belief formation involves attention to the values, contexts, and circumstances of the individuals whose interests we are concerned with respecting, promoting, and protecting. “Top-down” approaches to understanding these factors, including census information, scientific research, statistics, and environmental data, will have an important role. However, information should also be gathered from the individuals’ that measures are intended to support in order to ensure genuine sensitivity to what a life of value is *to the individual* living it. For example, imagine you work for a local council, and you are assessing whether or not we can and should chop down a section of woodland to build more homes. Certainly, you will want to consider general demographic factors. But we will also want to speak with local residents and gather information on the specific wildlife that use the woodland to make a balanced and reasonable assessment.

Second, reasonable deliberation will require you to settle on a measure that *best* promotes, protects, or respects an individuals’ interest in leading a life of value (Collins 2016, 714).¹²¹ There are two directions to this. On the one hand, in determining what best

¹²⁰ I take this to provide a more complete specification of why we should be motivated to bring others ‘closer to having reliable access’ to socioeconomic goods (Collins 2016, 712-713).

¹²¹ Note that this point is consistent with either an affirmation or a rejection of what has been called the ‘indivisibility principle’ in human rights literature (Nickel 2008): the idea that the interests protected by human rights should be given equal importance, without ranking or prioritising. I do not discuss this principle here.

promotes/protects/respects an interest, we should assess the relative disadvantage each individual faces in achieving what they value and give priority to the worst off in that particular context – in other words, those who face the greatest disadvantage in achieving whatever a life of value is to them.¹²² On the other hand, we should consider our own capabilities and contexts. For example, imagine I am deliberating over whether to help secure goods for others by either volunteering at a medical support charity or at a foodbank. Whether I have relevant skills, and how many volunteers each organisation has already, for instance, should contribute to my assessment of which use of my time will be best.

Finally, reasonable deliberation requires agents to consider their *own* interests in leading lives of value. The cost to the agent engaging in the reasoning must also therefore be considered *by the agent*. In other words, you must find a measure that fits within the boundaries of what you can proportionally sacrifice in your promotion of others' interests in leading a life of value. I will not say here what principle should be put in place to guide assessments about demandingness – instead I only point out *that* such a principle should be included. However, it should be noted that this directly incorporates concerns about demandingness.

To get even further purchase on what the right to consideration requires, we can also bring in the two further principles concerning the *kind* of moral status dignity-bearers have: separateness and equality. First, is the principle of the separateness of individuals, which holds that individuals ought to be considered *for their own sakes*, as *separate* sites of value (Rawls 1971, 27).¹²³ Incorporating this principle helps to make it clear *how* the duty to deliberate (A) should play out. Rights-bearers are said to have intrinsic value: they carry their value with them. On most views, this is in virtue of possessing a particular property that is the basis of their dignity (on my view, valenced sentience). This justifies the principle of the separateness of individuals because, if a being has intrinsic value, it makes sense to think their interests are in turn valuable *for that being's own sake*. Except in extraordinary circumstances, this requires a particular form of reasoning: a dignity-

¹²² This can be consistent with both accepting and rejecting the idea that you have stronger duties to associates (e.g., friends and family).

¹²³ I take this principle to further specify Collins' (2016, 712) claim that we should avoid doing wrong.

bearer's interests should neither be aggregated, dismissed nor ignored simply because the interests of the majority conflict with them (Greetis 2023). This means that the duty to deliberate requires us to deliberate within *particular constraints*.¹²⁴ We know from the above that deliberation ought to be directed at promoting, protecting, and respecting the interest in leading a life of value, but we now also know that for the most part this deliberation should exclude considerations about how interests might be aggregated or might contribute indirectly to other external values. It would violate the separateness principle to conclude that we should allow someone's interests to be disregarded for the benefit of others – whether they are a human, or not.

However, while the separateness principle produces a constraint on how our deliberations should play out, that constraint ought not be without exception – and it isn't on most plausible rights views.¹²⁵ For instance, being arbitrarily interfered with will in general undermine individuals' interests in leading lives of value. We should not violate others physical security, steal, or trespass for the pursuit of aggregative or external values (e.g., the benefit of the majority), because this kind of reasoning fails to reflect the separateness of rights-bearers (Greetis 2023). Similarly, we may settle on a reasonable belief that a measure will secure a socioeconomic good (e.g., stealing bread from shops), but pursuing that measure might be wrong because it undermines others interests in leading a life of value. However, violating these *presumptive* constraints may be permissible in certain extraordinary contexts. This idea is somewhat intuitive, and most deontological views accept that constraints have a *threshold* above which they are no longer binding or may be broken (Alexander and Moore 2021). For instance, if there is a sufficient number of people in danger, it might be permissible to torture one person to save them. The idea here is that since the purpose of organising a system of morals follows from what grounds our dignity – the capacity to value – there is a point at which violating constraints become permissible. What does this mean for how deliberation should play out overall? In short, we can stipulate that *reasonable* consideration takes into account the separateness principles if and only if it only gives moral weight to interpersonal trade-offs (harming X to benefit

¹²⁴ This provides more complete meaning to the idea that we should not pursue measures that 'would not be wrong' (Collins 2016, 713)

¹²⁵ See Segall (2019), who argues that a strong version of the separateness principle is inconsistent with most distributive accounts of justice, and so should be rejected.

Y) in extraordinary circumstances exceeding a given threshold (Voorhoeve and Fleurbaey 2012).

The second principle drawn from dignity's usage in contemporary human rights is the principle of moral equality. As we saw in chapter 4, while this principle is widely accepted in political and moral philosophy, it is rarely taken to include nonhuman animals. As I have understood it, it holds that all rights-bearers have the same *number* and an *equal stringency* of fundamental rights. On standard views, this means that while individual rights might differ depending on the specific needs and interests of the beings in question, all individuals will have the same fundamental basic right. In other words, specific rights are *instances* of a more fundamental right to consideration that rights-holders share equally. On my view, all rights bearers are moral equals because they all have a single equal right to consideration; in principle, no one is entitled to any more consideration than anyone else.

The principle of moral equality tells us *how* dignity-bearers interests should feature in our deliberation, since the right to consideration is equally stringent across its bearers (as I argued in the previous chapter) (Collins 2016, 711; emphasis added). The idea here is not that you treat every claimant *the same*, since this may unfeasibly demand that you consider each individuals needs one by one. Instead, it is a requirement to not give any claimant *more* consideration than any other. This is important since it allows you to use 'heuristics or other cognitive shortcuts' (Collins 2016, 711). Here is an illustrative example: you might draw on general statistics about the conditions of homeless people in your home city in order to achieve a picture of the situation, without requiring you to consider each and every person on a case-by-case basis. If all dignity-bearers have an equal right to consideration, then all relevant dignity-bearers should feature equally in your considerations. We therefore ought to include nonhumans at every relevant step in our deliberations, something most moral theories fail to do. An equal right to consideration correlates with a *claimable* duty to include nonhumans on equal terms.

This further clarifies step one (A) in the duty to deliberate. However, reflecting on the kind of moral status a dignity-bearer has also makes it clear how we get from step one (A) of the duty – engaging in deliberation – to step two (B) of the duty – actually possessing duties towards those to whom you specifically conclude you should support.

Dignity-bearers possess intrinsic value in virtue of their possession of the capacity to value. This makes considerations about dignity-bearers and their values *morally relevant* in general. To make the step to the claim that any particular dignity-bearer's values are morally relevant to *you in particular*, a duty-bearer, it must be specified how and why. By undergoing reasonable consideration, you – the moral agent – specify the limits of your own duties to particular dignity-bearers by considering their moral relevance to you in particular. It is this specification that gives rise to the specific claimable duties at the second stage. To illustrate, if you pass a stray hungry dog, then you might begin step one of your duty, and consider whether you should help her. Concluding that you should, you have genuine duties to help her because you have determined the moral relevance of the dog's values *to you* by engaging in reasonable deliberation.

With this more specific picture in mind, we can evaluate the right to consideration at a more general level. First, there are a range of cases in which measures you might take to protect, promote, or respect individuals' interests will not be adequate. This might be because, for instance, threats to interests are persistent (e.g., shortages in food supplies), the interests at stake are not easily satiable through a single action (e.g., the interest in receiving adequate affection), or because long-term developments might produce unintended results (e.g., interventions that produce more harm than good). Due to concerns of this sort, you also have a duty to periodically *reconsider* the options available to you. Duties to engage in the deliberative procedure are therefore on-going and insatiable; they are a permanent feature of our moral life. This makes claimable rights to consideration persistent. However, it does not make consideration *continuous*. Constant deliberation would not only be too costly to the agent, but if individuals had *continuous* rights to consideration, it would be impossible for duty-bearers to fulfil any duties, which would make rights-claims indeterminate in such a way that would cause them fail to overcome the claimability objection. In contrast, a persistent but discontinuous right to consideration means that the interests of all dignity-bearers will be considered in every appropriately new context. When sufficient and appropriate change has occurred, rights to consideration take on renewed force against duty-bearers *even if* those duty bearers have previously considered those individuals.

Second, when combined with my account of dignity, the consideration approach makes a system of rights *holistic* and *transparent* in its inclusion of nonhuman animals. It is holistic because the rights that nonhumans possess are of the exact same *kind* as the rights that humans possess. “Human” rights and “animal” rights are not fundamentally different in character: they both follow on from the possession of an interest in leading a life of value. We saw this in chapter 3: because only one property grounds the dignity of all dignity-bearers, there is only one kind of dignity. This is *holistic* because it does not separate rights-bearers based on the kind of being one is. Accordingly, as we saw in chapter 3, my system of rights does not face incommensurability issues faced by a pluralistic approach in explaining why some beings’ rights (most animals) are fundamentally different in nature from others’ (humans). Instead, the *point* of organising a system of rights takes centre stage: protecting what is morally important about dignity-bearers – their capacity to value things. Indeed, it is this very fact which makes my approach transparent. Not only do we know *what* we are ultimately aiming to protect, promote, and respect, but we also know why, and we have guidance on how to do so despite the diverse number and kind of beings who are included. It is because the consideration approach makes rights claimable, and my account of moral status gives moral norms their holistic purpose, that it achieves this transparency. We can comprehensively work out what we owe nonhumans *in tandem* with what we owe humans. This provides us a framework for approaching problem cases (as we saw in the previous chapter) and focuses our deliberations on what all dignity-bearers have in common.

What’s more, this follows no matter what differences there are between different dignity-bearers. For instance, some dignity-bearers do not possess significant, if any, interests in social inclusion, but they might possess other interests that humans do not. For those dignity-bearers, the interest in social inclusion should be given less weight than it is for intensely social creatures, or it should be given no weight whatsoever. We know if an interest (such as social inclusion) does not have as much weight for some beings as it does for others, and how much weight it does have, because we can determine the effect that meeting or obstructing that interest has on the more fundamental interest in leading a life of value. Focusing consideration on protecting promoting and respecting what is shared by all dignity-bearers therefore centres our deliberation on what matters, despite differences. Furthermore, since on my account all interests matter *because* they contribute

towards the individual's interest in leading a life of value, we can include nonhuman interests in our deliberative procedures even if we (humans) do not possess similar interests. As I argued above, there are two ways to do this: by gathering scientific evidence on what is typical for a particular being, and by attending to the values of the *particular* being that is of current concern.

Finally, given that each person's duties are a part of a *holistic network* of deontic relations, we can develop a constructivist account of "rights" and "duties" from the fundamental right to consideration. The right to consideration is a *moral* right correlating with a claimable duty. However, we can rely on this moral foundation to construct (or rather, *re-construct*) a set of presumptive basic legal rights. What I have in mind here mirrors the idea that all humans have a *right to justification*, championed by Forst (2012). However, it turns this on its head: it is not *receiving* justification that is morally important, but a claim to *engage* in reasonable deliberation about others' interests. It is plausible to invert this for two main reasons. On the one hand, it allows us to be responsive to what is of moral importance at a fundamental level. Certainly, for humans, *receiving justification* and being a part of collective practical reason has moral importance (but perhaps only because it is *in* our interests to receive justification). Yet for many of our interests it is simply being included in reasonable deliberation that takes centre stage. This certainly seems true of those in serious poverty. What's more, this also allows us to vindicate the moral rights of nonhuman animals, and those humans who are incapable of rational reasoning, in a conception of rights and their claimability. On the other hand, it still allows us to endorse and develop a constructivist account of legal "human" rights *out of* this moral foundation. Such presumptive rights and duties will result from broadly overlapping agreement over what individuals should and shouldn't do to promote, respect, and protect one another's interests in leading lives of value, as well as the interest of nonhumans. I said in section 2 that the legal institutionalisation of moral rights represents a process by which the above duty to deliberate is collectively put into practice. Legal rights are constructed with institutional backing. If we deliberate over many of these, then we realise that they form reasonable beliefs resulting in actual duties on our parts, even if these are sometimes rights/duties which may not *necessarily* be claimable but which it may still be appropriate to call (constructivist) rights insofar as they identify normatively weighty interests (Brownlee 2020, 59–60; Etinson 2013, 480–82; Tasioulas 2007). The Universal

Declaration of Human Rights is the best example of a presumptive list of rights for humans, at a general level. Nonetheless, we can and should engage in the exact same process to generate a list of presumptive rights for other animals by focusing on the things they tend to value – and to revise our list for humans, one that overcomes anthropological critiques surrounding universality and respect for cultural difference (Goodale 2022). These duties will have a common core – consideration of the interest in leading a life of value – but their specific content will vary depending on the kind of being to whom, and which particular being to whom, they apply.

Along these lines, we can develop a revised human rights practice (Goodale 2022). Such a conception will maintain the shell of human rights, and some of the principles at its core that I have identified – particularly, the idea of intrinsic value and fundamental moral equality – but it will revise the meaning of human rights. This revised human rights practice will consist of a fundamental duty of reasonable deliberation because deliberation is a means of discovering the facts about the moral relevance that other’s interests have to a particular agent in a particular context, but it will require us to ‘remain conceptually dynamic and discursively malleable’ (Goodale 2022, 111) through engagement with the *subjects* of “human” rights (human *and* nonhuman dignity-bearers). Human rights (in the international legal form) are simply those duties that we all have to one another and to the other animals in all general contexts. To specify what is required of us we must consider and engage with one another, and our fellow creatures, rather than simply deriving unclaimable natural rights from a natural property.

Is reasonable deliberation up to this task? To interrogate this, imagine that Scrooge engages in the most reasonable deliberation he is capable of. However, while he is in a position in which we could do a significant amount to help others, he simply fails to reach the right kind of conclusions. In his childhood years, through no fault of his own, he failed to develop epistemic virtues and did not surround himself with individuals that encourage good belief formation – in fact, his upbringing meant that he adopted several prejudices. Now he is an adult, he believes that he is reasonably deliberating, but unfortunately his character and disposition prevents him from settling on measures which many others agree he should settle on (for instance, donating money to help the less well-off, welcoming, and supporting refugees, and promoting legislation preventing animal

cruelty). It might be thought that Scrooge has not violated anyone's right, since he *is* reasonably deliberating (as far as he is capable of) about what he should do.

We can overcome this worry by relying on the idea that the norms I have outlined above constitute *objectively* reasonable deliberation. Scrooge does not deliberate reasonably simply because he is deliberating as reasonably *as he can*, or because he believes he is. Scrooge simply fails to deliberate reasonably if he fails to deliberate according to the reasonable norms above. To be sure, our deliberation can always improve, but the demand is not that you form an 'unassailable' belief about what you should do (Collins 2016, 712). The norms of reasonable deliberation constitute an ideal minimum standard of deliberation, a standard which is achievable to reach. In many contexts, this is relatively simple: when deliberating over whether to donate to a charity promoting fox hunting, or helping the homeless, it is relatively obvious that I should favour the latter. Other cases will be more challenging – but that is the nature of moral deliberation, which the consideration approach not only accounts for, but embraces. Scrooge violates others' rights when he fails to deliberate reasonably, but he can do something about that. He not only *can* reflect on how to improve his deliberation, but he also has a *duty* to do so – one that correlates with the right that all bearers of dignity have to receive that consideration.

5.5 Implications

For my account to be successful, it must be obvious why the right to consideration is claimable. To recap, there were three distinctive practical implications of claimability: claimability ensures that rights can be enforced, and that in cases of the violation of the right, restitution and resentment are justified.

One simple route to enforcing consideration rights is through *social* measures (Collins 2016). We might for instance use negative public opinion, shame, and mechanisms of social reward to ensure individuals do engage in their duty to deliberate. I might, for instance, explain to fellow co-workers that they should do more to make a new employee feel welcome. This will provide substantial mileage, but to get any more than this we must balance two competing concerns: achieving robust enforcement mechanisms and avoiding a disproportionate invasion of 'individuals' private lives' (Collins 2016, 716). To do so, we require a sufficient number of individuals to empathetically adopt other duty-

bearers' perspectives in their deliberations to consider what they would (at a minimum) do if they were them. Deliberation over what we *would* do if we *were* others can guide us to settle on what measures others *should* at a minimum perform as a result of their own deliberation, and those measures at least might be enforced. For instance, if it is discovered that other co-workers are not doing enough to include a new employee, then appropriate measures might be taken to enforce the fulfilment of the duty to include them, for instance. Moreover, we arguably have *duties* to perform this kind of empathetic consideration. I argued that civil-political rights have claimable elements, to protect others against the violation of their rights. To fulfil this claim on my model of rights, we must consider how the individual's interest is being undermined and deliberate over what measures we can take to prevent this. Doing so will involve empathetic consideration of others' perspectives by asking whether they have adequately engaged in their duty to consider other's interests. There will certainly be a degree of uncertainty in these assessments, but because the process of deliberation I have outlined in the previous section creates a standard of good belief formation, there will be clear cases where it is obvious some have not reasonably deliberated (Collins 2016, 718). While limited, this allows us to make *pro tanto* judgements about certain minimal measures that duty-bearers should have settled upon.

With regards to restitution and resentment, there are two sorts of concerns. First are those where adequate consideration is not provided, or duty-bearers did not act as the conclusions of the deliberative procedure would require. For these cases, the solution will mirror the above: we can empathetically adopt the deliberator's perspective and use social pressure and social norms to assess whether the duty-bearer's deliberation was adequate. If insufficient, some kind of restitution can be sought, or resentment would be justified. Second, the problem may instead be that my approach seems incapable of accounting for cases where restitution appears (intuitively) to be owed. On standard views, I owe you restitution for violating your rights, even if it was morally permissible for me to do so. For instance, if I must trample on your toes to grab my dog before they run into the road, then you might think that I have permission to do so, despite this violating your "right" to physical security, I simply owe you restitution (e.g., an apology). However, on my view, I only owe you such restitution, in cases where I failed to consider you; duty-bearers do not owe restitutions for harms they carried out after having fulfilled their duty to

deliberate. If I consider you and conclude that that my only option is to damage your interest in leading a life of value, then I have *already* respected your right by adequately considering you, so do not wrong you by trampling on your toes. It might appear as if I still owe you some form of compensation, though. The objection therefore follows that we do not owe restitution when we intuitively should: in cases where we consider others interests but nonetheless undermine them in order to protect, promote or respect the interests of others.

While I concede that it is correct that agents do not owe *restitution* to the individuals whose interests they have undermined, they do owe them further consideration of their interest in leading a life of value. Recall that the right to consideration is persistent but discontinuous, so you ought to consider all dignity-bearers in every appropriately new context. Undermining someone's interests in leading a life of value creates an appropriately new context. In my previous example, I rescue my dog safely, and after doing so I must reconsider your interests. Having just trodden on your toes, I deliberate and conclude that I owe you an apology as a result. However, I do not owe you this *because* I violated your right (because I did not violate your right); instead, I owe you this as a remedial response to having undermined your interests. I apologise for harming you, not for violating your right. This responds to the above objection by accounting for the intuition that I owe you *something* but consistently explaining what I owe you, and why.

One further concern about claimability regards the potentially counterintuitive nature of the explanation that the consideration view provides. It might be thought that when we undermine someone's interests the wrong of doing so does not primarily lie in the fact that we did not consider them, but in the very fact of undermining their interests. According to this worry, torturing someone is wrong because it is wrong to harm others, not because by torturing others we fail to consider their interest in leading a life of value. My approach might therefore seem to get things the wrong way around; by placing the emphasis on consideration, it fails to do justice to the graveness of certain actions in and of themselves.

I concede that the violation of certain interests, such as the interest in avoiding torture, is what is deeply morally outrageous about certain actions. However, what is morally outrageous need not be the same as that which *primarily explains why* some action violates

someone's right. This conclusion is not as strange as it might first appear. For one thing, the idea that we can violate others' rights merely by failing to adequately consider them or coming to the wrong conclusions about how to act morally, coheres with how we tend to think about rights violation. For instance, *intent to murder* is a prosecutable offence that the consideration view can easily explain, even if the murder never takes place. The wrong here consists in the fact that the wrong conclusion about what to do was reached, or that the right conclusion was disregarded. However, it is also not *only* consideration that features in the explanation. That is, what explains why some action is a rights violation is that the duty-bearer *either* did not engage in adequate consideration of dignity-bearers' interests, *or* they did not act according to the conclusions of their consideration. The duty is to deliberate reasonably *and* act according to the conclusions of the deliberation, not only to deliberate reasonably. In other words: in the above example either the torturer formed the wrong belief, or they failed to act according to the right belief. Both actions are claimable, and both actions contribute to explaining rights-violations.

While my view is an unfamiliar way of thinking about rights, two reflections help us to see why it is not *overly* revisionary. First, the consideration view does not require giving up too much in rights theory. This is because it retains the familiar Hohfeldian structure of rights: in fact, it stays faithful to it far more so than many other contemporary accounts of rights that *give up* on claimability. Rather than throwing current rights frameworks out entirely, we can simply reapply them to an understanding of wronging that is grounded in the right to receive consideration of one's interest in leading a life of value. We still have the elements of the Hohfeldian jural logic at a general level: all agents have liberties to do what they wish, consistent with the claims others possess to have their interest in leading lives of value adequately considered and protected, promoted or respected as a result of that consideration.¹²⁶ Specific (presumptive) duties will follow on from this, meaning that many of the rights that are widely accepted and discussed in contemporary politics can be still justified as *specific* instances of the fundamental right to consideration, using the same Hohfeldian system. Take, for instance, the right to asylum. On my account this is a specific right that follows from states considering the interest that refugees have in leading lives of value. The international community has jointly decided that the

¹²⁶ For a breakdown of this, see (Kramer 1998)

reasonable conclusion of deliberation over protecting refugee interests is that states ought to grant asylum. Individual states are the recipients of claims to asylum. Accordingly, the specific (presumptive) right to asylum follows from a fundamental right to consideration. Rethinking the nature of rights does not therefore mean rethinking the whole of rights theory.

What's more, the consideration view achieves this while making sense of everyday moral deliberation. Rights do not produce distinct or abstract obligations that only powerful and collective agents like that state must pay attention to, they are also obligations that each and every one of us have, in all contexts (Collins 2016, 720). This continuity between rights and everyday moral reasoning assigns responsibility to all of us for enacting change, but it also accounts for why institutions should bear the brunt of those responsibilities: with greater resources comes a larger capacity to undertake measures in support of others' interests. Finally, greater continuity of this sort produces a more holistic account of rights which, as I have explained, ensures nonhuman dignity-bearers are included alongside and on a par with humans.

5.6 Conclusion

This chapter focused on the duties correlative to a right to consideration of the interest in leading a life of value. I outlined four conditions that constrain the claimability of a right and make rights and their correlative duties distinct from mere aspirations or moral ideals: they are *prescriptively binding against determinate agents, not over-burdensome, pre-institutional* and *non-discretionary*. The dark side to this is that since a version of the claimability objection applies to nearly all rights, these conditions constrain the claimability of nearly all rights.

However, the approach that I have developed allows us to vindicate the claimability of rights – we can reinterpret all rights (not simply socioeconomic rights) as specific instances of the fundamental right to consideration. This makes rights claimable since a duty to deliberate falls on every moral agent. The steps required of reasonable deliberation make this duty nondiscretionary and ensure that the measures one must perform are not over-burdensome. It follows that to vindicate claimability, we ought to accept the consideration view of rights.

However, the consideration approach also has advantages for a theory of rights more generally, particularly regarding its inclusion of nonhumans. I argued that this approach to theorising rights is holistic and transparent in its inclusion of nonhumans in tandem with humans. I finished by working through some of the potentially counterintuitive implications of my approach. The upshot is that claimability need not be a worry, even on an approach that includes nonhuman animals.

Conclusion

“Human” dignity ought to extend beyond the human. Many nonhuman animals *value* their experiences, just like us. They therefore share with us a capacity of fundamental moral importance. While this has not gone unrecognised by animal ethicists, many contemporary rights theorists continue to defend the view that humans are morally distinct or superior. Few theorists now deny that nonhuman animals possess *a* moral status, but fewer still include them in the full range of theoretical and practical issues of normative concern. In contrast, I have argued that a distinctly “human” dignity *cannot* be defended, and that we should instead adopt an account of dignity inclusive of nonhuman animals, one which can both replace standard views and improve upon them.

I began by demonstrating why an account that endorses the Human Scope Thesis (the claim that almost all and almost only humans have dignity) cannot overcome what I called *The Scope Challenge*. As I argued in Chapter 1, this challenge requires us to provide a coherent and non-arbitrary justification for why a being possess dignity by fulfilling the following criteria:

1. The natural grounding condition: dignity should be grounded in an inherent natural property or properties of a being.
2. The intrinsic value condition: the natural property/properties grounding dignity must have intrinsic value.

Since accounts of “human” dignity fail to achieve this task, dignity should extend to nonhuman animals as well. I then argued that if dignity is grounded in the capacity to value, then it overcomes the Scope Challenge. This capacity comprised two other jointly necessary and sufficient conditions:

- i. The possession of teleological interests (the interests condition)
- ii. The capacity to experience modifiable mental states (the consciousness condition).

These conditions amount to a single *capacity to value* the achievement and maintenance of particular ends in and of themselves. I also contended that while this account of the basis of dignity is similar to other sentience-based views, which are popular in the animal ethics literature, it differs insofar as it provides a deeper explanation of the moral importance of the mental states of nonhumans without reducing those experiences to a pleasure/pain dichotomy. This overcomes the Scope Challenge because the capacity to value has intrinsic value. Not only do we have an *intuitive* sense of this, but it is also the most plausible property of intrinsic value that can end a reflective *regress* over the source of value. In other words, if we posit that the capacity to value is intrinsically valuable, then we end up with the most plausible and coherent answer to the question “why are other objects, activities and experiences valuable and therefore morally relevant?”

What makes my approach distinctive is that it maintains and draws upon the three core claims at the heart of contemporary theorising over dignity and human rights, *whilst* arguing that dignity is possessed by a range of nonhuman animals in the above way. First, Chapters 2 and 3 have vindicated the assumption that bearers of dignity have an intrinsic moral worth based on their particular natural features. Second, by relying on this basis for dignity, we can determine that dignity-bearers have direct and claimable rights. This is because the concept of intrinsic value that is deployed on my account is already a deontic one: it does not admit of degrees, aggregation, and absolute comparison. It therefore requires moral agents to act in specific claimable ways towards dignity-bearers. Chapter 5 spelled out what specifically those claimable actions are: to engage in a particular deliberative procedure, and to act according to the conclusions of the procedure. Finally, this account of dignity is also consistent with the contemporary presumption that bearers of dignity possess it to an *equal* extent, as I argued in Chapter 4, because all dignity-bearers have the *same* intrinsic value, and it follows from this that they have the same equally stringent fundamental right: to consideration of their interest in living a life of value. This matches up the right-duty correlate: rights to consideration generate claimable duties to engage in a particular deliberative procedure.

Extending this conception of dignity and rights to nonhuman animals raises a number of concerns. While I have not addressed all concerns that might arise, I have responded to four of the most pressing.

First, we can return to *the Pluralist Challenge* and *the Biocentric Challenge* that I examined in Chapter 3 in tandem. These challenges both contend that dignity can be grounded in more than one property. This might seem appealing either insofar as we want to maintain a hard distinction between “persons” and “non-persons” (those who do and do not possess agency), or insofar as an account of dignity should include non-sentient organic entities, too. While I did not conclusively reject the accounts from which these challenges arise, I did argue that they are far less plausible views of dignity, providing us good reasons to accept my monistic alternative instead. My view is not only more parsimonious, but it also has greater explanatory power. We can use the capacity to value to explain the value and moral relevance of other valuable properties, all while accounting for or dissuading the motivations for adopting Pluralism in the first place.

Next, I addressed the *argument against unitarianism* in chapter 4. This argument held that an account of equal dignity would result in several counterintuitive implications. The thought here is that equality at the level of deontic status would require us to provide certain forms of equalising treatment, such as flipping a coin to decide whether to save a dog or a human, or favour malnourished pigeons over malnourished children. However, these kinds of counter-intuitive implications do not follow. While I have argued that humans and nonhumans have an equal dignity, my account is also sensitive to the relative disadvantage different beings’ face in achieving what they value. That is, we should resolve such conflicts by comparing what different beings value against standards that are relative to them. Who you should favour in conflict cases is therefore determined by working out who faces the greater relative disadvantage in achieving what they value. While you ought therefore to favour humans in *some* contexts, you should not do so in *all* contexts. For instance, you might save a human over a dog in a rescue case, and you might favour malnourished children over pigeons. But you should favour nonhumans where they do in fact face greater relative disadvantage in achieving what they value *even if* this comes at a cost to human interests. For instance, in a rescue case, if a human has only a short time left to live, and we must choose whether to save them or a puppy, then you ought to rescue the puppy. Similarly, a network of welfare services ought to be developed for nonhuman animals like pigeons, even if this is at a relative cost to human interests, as a result of diverting funds away from similar services targeting humans. While this is revisionist, it is not counterintuitive.

Finally, chapter 5 contended the *claimability objection* has no force against the rights that result from my account of dignity. That is, even if the above follows, it might be thought that my account of dignity does not generate bona fide rights unless the relation between the right and the duty is clearly determined. Minks might plausibly have claimable rights *not* to be farmed for their fur, but it is not clear they would have claimable rights to be provided with food and water if they cannot access this themselves. I argued that we can overcome worries of this sort by configuring the right as requiring agents to engage in *reasonable deliberation* over what they can do to promote, protect, and respect the interest in leading a life of value. While this alters the fundamental landscape of what it means to have a right, it does not do so in such a way that requires us to throw the baby out with the bath water. We can still construct an account of legal rights using this conception of moral rights. What's more, this understanding of moral rights coheres with considerations above about how we should approach conflicts: a responsibility rests on all of us to engage in deliberation, and the normative distinctiveness of a rights-claim can be well-maintained, since rights can still be enforced, and restitution and resentment are still justified in cases of their violation.

The main upshot of my account is that nonhumans ought to have significantly greater inclusion in our deliberations. There are two directions to this. On the one hand, there are implications concerning the demand *to* include nonhuman animals. Nonhumans should be considered in the same contexts and for the same fundamental reasons as humans are – including in research agendas, social and economic policies, urban planning, environmental strategies, distributions of resources, etc. On the other hand, there are also implications for *how* nonhumans are to be included, as well. Nonhumans should have far greater priority in decision-making than orthodox theories that either implicitly or explicitly rely on pluralist or hierarchist assumption have given them, even at a relative cost to human interests.

These implications are not exhaustive though. There are at least three directions that further work ought to be taken. The first is in developing further the conception of dignity that I have been putting into practice. While my approach would be consistent with a hybrid approach to dignity that relies *both* on a natural property (valenced sentience) and conventions surrounding how dignity is deployed in practice, I have not drawn out what exactly this hybrid approach would look like, and what implications there would be for

including nonhumans in this substantive picture. Related work has been done on the *political* rights of nonhumans (Cochrane 2018), but of particular relevance for such a hybrid conception are the social senses associated with dignity, such as recognition, social esteem, and social inclusion (Killmister 2020), as well as the relevance of these norms to nonhuman animals. A second avenue concerns the theory of rights that I have outlined. If claimable rights are, at their core, rights to consideration, then numerous questions arise about the specific rights that result from them, including the prospects that my theory has for helping us to address other objections facing “human” rights, and how the practice of enforcing and specifying legal rights relates to this theoretical foundation. In particular, questions arise about how nonhuman animals should be included in these legal frameworks, which several theorists are beginning to explore. A final avenue concerns the practical implications for a theory of social justice. The account I have offered is relatively minimal. It focuses only on basic deontic requirements, but a *maximal* account of dignity would say far more about the implications for an encompassing ideal of social justice (Gilbert 2023a, 28). In other words, what I have argued for here is only the first part in a wider dignitarian conception of justice that extends *beyond the human*.

Nonetheless, my arguments demonstrate that nonhuman animals should be included at the very heart of theorising about moral, socio-economic, and political problems, and so they should be included in our practical responses to addressing these problems, too. This is because there are neither different *kinds* of dignity among bearers of the capacity to value, and nor are there different *degrees* of dignity. Instead, we (humans) possess the same dignity that nonhuman animals do – and the same fundamental right: to consideration of our interest in living a life that is valuable by our own lights.

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