ANTANIA: A WORLD WITHOUT RIGHTS

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Abstract:

In "Antania: A World Without Rights" I argue against attempts to model moral rights on legal rights because they make moral rights appear as accidental rather than necessary features of a moral system. The device of constructing a hypothetical model of a moral system, Antania, is used to show that crucial features of a moral system, individual moral responsibility, and praise and blame are conceptually related to individual moral rights and hence that any moral system must contain moral rights as well as moral agency.
ANTANIA: A WORLD WITHOUT RIGHTS

It is tempting to suppose moral rights, which seem to some philosophers very mysterious indeed, can be explained on a model of legal rights, which appear rather less mysterious. What is the origin of moral rights? Who or what conferred them? How and by whom are they enforced? It has long appeared to philosophers of many persuasions that these difficult questions can best be answered by likening moral rights to political or legal rights and by attempting to account for them in something of the same way. To follow this procedure is to argue that "...the concept of a right is one that is imported to some degree from legal and political institutions."1 Moral philosophers in the natural law tradition made out their accounts of moral rights as though they were the creature of law, only a higher law of course. The classical utilitarianists were able to accommodate the notion of moral rights only by interpreting them as those rights which ought to have a legal status because their legal enactment would be useful. On this model, a moral right is merely a legal right that ought to be. It is not my concern to track out the familiar internal difficulties in these or similar analyses of moral rights; rather I will argue that there is a fundamental defect in all such accounts, a defect which is pernicious because it leads us to mistake the essential features of a moral system.

It is easy enough to imagine a society without a legal system, and hence, without legal rights; and we can understand the notion of a legal system without legal rights, though we might prefer a different system. If we succumb to the temptation to construe moral rights on the model of legal rights, we may be led to suppose that it is also possible to conceive a moral system without moral rights. On such a conception, moral rights are an accidental rather than essential feature of morality. I will argue, to the contrary, that moral rights are essential to a moral system because the concepts of moral rights and moral agency are linked so closely that a system lacking rights will also lack agency, and therefore not be a moral system at all.

I propose to investigate the issue by attempting the exercise of constructing a careful description of a moral system without rights. The task is to determine if moral rights can be eliminated without affecting moral agency. This methodology has an obvious weakness; a failure to describe such a system may only indicate a lack of imagination. I believe this methodological shortcoming is not fatal, but only because the difficulties which emerge in attempting to describe a moral code without moral rights are of such generality as to make a prima facie case that the concepts of rights and agency are logically connected and cannot be severed sensibly.

Exactly what are we asked to imagine when we conceive a moral system lacking rights? Clearly, we have to do more than imagine a moral system in which there is an absence of discourse about rights. This could be done quite easily but would not meet the issue. We could, for example, imagine a moral system governed by rules, The Decalogue perhaps, which are not right conferring rules. Such a system might contain moral rights nevertheless. We need do no more than inquire how members of such a community would justify their system to see that this could be so. They might appeal to the authority of God to justify the rules, but if so, surely they must conceive of God as entitled to issue rules or as having some special standing or role in the moral community, and hence as a right-holder. Alternatively, they might justify the rules on the grounds that following them insures that everyone will be treated fairly. But again, such an appeal demonstrates a shared belief that everyone is entitled to fair treatment. Hence, a moral system may lack an explicit notion of rights but still contain concepts and moral relations or require behavior which demonstrates the existence of an implicit notion of human rights.

In his classic contribution to the discussion of rights, "Are There Any Natural Rights," Professor H. L. A. Hart offers a description of a social order without moral rights.

...There may be codes of conduct quite properly termed moral codes (though we can of course say they are "imperfect") which do not employ the notion of a right, and there is nothing contradictory or otherwise absurd in a code or morality consisting wholly of prescriptions or in a code which prescribed only what should be done for the realization of happiness or some ideal of personal perfection. Human actions in such systems would be evaluated or criticised as compliances with prescriptions or as good or bad.
right or wrong, wise or foolish, fitting or unfitting, but no one in such a system would have, exercise, or claim rights, or violate or infringe them.²

Let us then undertake the exercise of describing a system without moral rights, call it "Antania," and attempt to determine if moral agency is lost in the bargain.

I

It is important to arrive at a preliminary understanding of the broad character of the Antanian moral system. Some general and very obvious features are worth delineating. (A) Any moral concepts logically tied to the concept of moral rights cannot be a part of the Antanian system. (B) Antania must have rules, principles, or criteria by which actions can be appraised as right or wrong, and character assessed as good or bad. (C) In Antania, there can only be right or wrong conduct, no rights of individuals, no wrongs to individuals. Neither the moral rules nor the ethical values of Antania create rights, entitlements, or justified claims of one individual against another.

(D) Therefore, only the quality, character or logical features of action can provide grounds for moral assessment. The standing, role, or authority of individuals cannot be morally relevant and relationships between individuals are of no moral importance. In a system with rights, an action might be quite unobjectionable on the basis of its own features, but nevertheless be morally wrong when it is done by or to individuals whose special status changes the complexion of the situation. The act of declining to aid another in performing a trivial but time-consuming task is not morally wrong per se but it may be morally wrong to decline to aid an aged parent or someone to whom a promise

² H.L.A. Hart, "Are There Any Natural Rights?," Philosophical Review, LXIV (1955) 176. In this paper Hart argues that if there are any moral rights at all there is at least one natural right. I agree with the general force of his argument and much of his discussion about rights, but I disagree with his claim that there may be a moral system without any moral rights. If I am correct that any moral system has moral rights his argument is considerably stronger than he claims.
of help has been given. These sorts of differences in moral evaluation cannot occur in Antania. In Antania only the act and its features can be grounds for moral evaluation, not anything about the special status, roles, relationships or rights of the parties concerned.

(E) Certain kinds of reasons for doing or abstaining which can be offered cogently in other moral systems are senseless in Antania. Antanians cannot argue an act is morally objectionable (or praiseworthy) because it is contrary to (or compatible with) the interests of individuals who are entitled to proper regard. Moral reminders such as, "You are morally obligated to do X because X is required by a moral rule" are admissible, but reminders such as, "You are obligated to A," or "You ought to do X because of A, who A is, out of respect to A, because A is entitled, etc." are inadmissible.

(F) Many familiar moral dilemmas may arise in Antania, since moral rules may conflict, there may be extenuating circumstances and Antanians may disagree about how to resolve conflicts or how to weigh moral values. However, one method of resolving moral dilemmas to which we are accustomed is not present in Antania. Since there are no moral rights, no one can waive a right. No one is entitled to say to another, "Oh, never mind. The rule says you should, but let's just forget it."

(G) Nevertheless, persons in Antania are moral agents. This is not the place to attempt to analyze the full force of that claim, but some features of moral agency need to be kept in mind. Antanians regard each other, at least on some occasions, as actors rather than merely reactors to events. Antanians must see an essential difference between a person and a thing in this respect. People, as moral agents, must be conceived as being capable of understanding, of making choices, and of acting with intent. Some philosophers might want to argue that moral agents also possess moral value and moral rights but we cannot assume that now since it is ruled out by the terms of the hypothesis. Suffice it to say that Antanians are moral agents because they (at least sometimes) know what they are doing and could do otherwise. Hence, they are held morally responsible for their actions and are praised and blamed for what they do.

II

With this preliminary sketch in mind, the task is to flesh out the description. It is necessary to make clear
what sort of moral reasoning is unacceptable in Antania, so that in mapping the Antanian moral system we not only locate the significant features but also notice what is missing from the landscape. Suppose that Antania has a moral code having, for the sake of simplicity but at the risk of appearing simple, only two rules: (1) Keep off the grass, and (2) Bathe daily. These rules are prescriptive in nature. They do not merely summarize the general practice of Antanians. The rules are conceived as limiting behavior and hence, they tell people what to do rather than telling them what they are doing or what they usually do. A violation of the moral rules has no legal consequences, but does affect the moral standing of the violator in the community. Repeated violations are cause for regarding the violator as lacking in character, morally irresponsible, unwholesome, morally defective, or reprehensible, not just as eccentric, thoughtless or inconsiderate. Antanians take care to protect their children from constant violators and offer them as examples not to be emulated; employers refuse them employment and they are unacceptable in decent society. For these reasons, individuals often attempt to hide violations of the rules, experience feelings of guilt, and perhaps seek atonement. No doubt some Antanians wish to see the moral rules given legal standing in order to achieve substantive protection from immorality but we will suppose their steadfast efforts so far have failed.

A primary issue to be confronted in any moral system is how to respond to the moral sceptic who sees no reason to uphold the moral code of the community. It is worthwhile to consider how Antanians might respond to a Thrasymachus in their midst for doing so may illuminate some important features of the Antanian system. Antanians might argue, as Professor Hart has suggested, that the rules of the system are justified and conformity to them required because they are essential to achieving the moral value of the realization of happiness or some ideal of personal perfection. Extreme caution must be exercised at this point, for it would be very easy to confound such a justification with a similar one offered within a system with rights. In a system with rights, an appeal to happiness or personal perfection may be just a way of appealing to the rights of individuals to have their interests promoted. But in Antania, individuals, qua individuals, have no worth or special status in the moral game. Their interests are only morally relevant in virtue of the rules and hence cannot be cited as a justifying consideration for the rules themselves.
In a moral system having rights, individuals ought to be treated with regard or respect just because of who and what they are. In such a system, the morally responsible are always concerned that their treatment of others be defensible and that they can offer a justification for the treatment they have afforded others. In such a system, interfering with another or jeopardizing his interests requires justification. This is not the case in Antania. Antanians need to provide justification for their acts in terms of conformity to the rules, but need not justify treatment of individuals per se. In a system having rights, a certain area of the life of the right-holder is under his own jurisdiction. The area may be wide or narrow, but every right-holder has as his special domain a province in which, all things being equal, others may not interfere. Any attempt to infringe upon this area stands in need of justification. Hence, the point to asserting a right may be to remind others that with respect to X one has a special status which others must respect, or alternatively, to assert that one's special status or position entitles one to interfere in an area of the life of another which otherwise would be out-of-bounds. None of these moves can be made in Antania. The consequence is that no one can appeal to a special status or title which justifies interfering with another. Further, no one would ever need such a justification because there is no special area of anyone's life over which he has special jurisdiction and in which interference is normally unjustified. In Antania, interfering with another or jeopardizing his interests normally does not require justification.

The distinguishing feature of the Antanian moral system is that in almost all respects, individual Antanians enter in the moral game in just the way things enter into our moral game. The vitally important respect in which this is not so is that Antanians have moral obligations which they are capable of fulfilling or failing to meet. In our moral system, things have neither rights nor obligations. Antanians have obligations but no rights. Antanians no more need justify their treatment of each other than we need justify our treatment of tin cans. In a moral system having rights, all things being equal, people ought to be left to do what they want within their rightful province, and hence, interference with the actions of others stands in need of justification. Arbitrary treatment of things and animals requires justification only if a particular kind of treatment has been excluded by a rule. Hence, it is wrong to toss a tin can in a lake, not because of any rights of the can, but because it violates a rule. In the

3 This is essentially Hart's argument.
absence of a rule, arbitrary treatment of things does not raise any moral issue. It would be wrong, in Antania, to treat individuals contrary to the rules, just as it may be wrong in our system to toss a can into a lake, but only because a rule forbids such treatment, not because of any special moral value attached to Antanians. Antanians have obligations; but they have no obligations to fellow Antanians. Individuals in Antania are not right-holders—they do not occupy special relations vis-a-vis each other, they do not have roles, authority or positions which entitle them to have their interests or welfare promoted. The interests of individuals in Antania have moral significance only on the condition that some moral rule requires their promotion. It may in fact be the case that the interests and welfare of Antanians is promoted by daily baths and untrod grass, but that fact cannot be cited as justification for the rules. To appeal to such a justification is to implicitly appeal to moral rights.

Therefore, the justifications which the Antanians could offer to mollify the moral sceptic would be quite different than those we might employ even when they share a grammatical form. The welfare or interests of others has moral relevance, if at all, only as a product of the moral rules, not as an independent value capable of justifying the rules. It is sufficient for the present purpose to outline this distinction between an appeal to happiness and personal perfection in Antania and a similar appeal in a system with rights. We do not have to understand why the Antanians value happiness and personal perfection so long as we understand that reasons we would likely cite are inappropriate in Antania. Let us then suppose that they simply do value happiness and personal perfection for its own sake and not because it furthers the interests of individuals.

But whose happiness or personal perfection do they value? Does it matter? If it does, moral rights may have been kept from the parlour but allowed to creep in the bedroom window. Suppose that Rule 1 imposes a disproportionate burden on a few Antanians. Could that be grounds for criticism of the moral rules or a reason for revising them? Presumably the rules are justified on the grounds that they promote the values of the community—happiness and personal perfection. It would be legitimate to criticise the rules on the grounds that they fail to promote these values or that some other rules would be more successful. It would make sense to criticise them on other internal grounds as well, grounds such as inconsistency, lack of clarity, etc. But if the Antanian code consists wholly of prescriptions of what should be done for the realization of happiness or some
ideal of personal perfection, then the amount of happiness or perfection meted out to each individual can be important only if (a) some arrangements of distribution are held to be intrinsically superior regardless of the individuals involved, or if (b) Antanians view individuals as due equitable treatment. The second alternative is ruled out by the terms of the hypothesis. On the first alternative, Antanians would value happiness and personal perfection and also some particular distribution of happiness and personal perfection. The moral rules might be justified on the grounds that they promote these values. Antanians could not, however, justify preferring one distribution over another because one is fairer or equitable, for this would introduce the notion of a right. However, they might, something like an artist who is concerned about balance or proportion in his painting for its own sake (not because one portion of canvas is entitled to a share of paint) value a particular distribution for its own sake.

The implications of this are important to consider. A criticism of the distribution of happiness and personal perfection preferred by the Antanians would necessarily be an external criticism, a recommendation for changing the system. Antanians do not place an independent value on individual worth so a criticism of the preferred distribution of happiness on the grounds it fails to treat all equitably is simply unintelligible except as a suggestion that rights be introduced into the system.

There can be no conflict in Antania between the moral force of the rules or the values they promote, and the life, health or happiness of particular individuals because these latter considerations are not morally relevant. Hence, if in a life or death situation, an Antanian treads upon the grass, the circumstances which prompted his act cannot be cited as a moral excuse but only as a prudential explanation. Antanians do not have the right to life and their interests do not weigh as independent factors in the computation. The fact a life was at stake is no (moral) reason at all for disobeying the rule.

The description of Antania given so far reveals a truncated moral system but no absurdities. Antania has moral values and rules intended to promote those values. But because Antania recognizes no moral rights the only morally relevant consideration is the character of action and the only morally important query is whether an action is prescribed or prohibited by the rules. Antanians may find some distributions of happiness or personal perfection morally superior but not because anyone is entitled to a share or has anything coming as his due. The plight of
others can arouse sympathy but it cannot strike a moral chord. Antanians have obligations to do acts of certain descriptions and to abstain from others, but they do not have obligations to each other.

II

I want to argue that in spite of its initial plausibility, there is a crucial defect in the description thus far given of the Antanian moral system, and that its correction will show it is impossible that all obligations be obligations to do or abstain from doing because a system with individual responsibility must also have individual moral rights. I will argue that only the introduction of moral rights into the Antanian moral system will permit a retention of the heart of moral agency: moral responsibility and moral praise and blame.

Several peculiarities of the Antanian moral system have not yet been stressed sufficiently. First, because Antanians have no rights whatever, no one in Antania has a right to expect others to uphold the moral standards of the community. In Antania, expressions such as "How could you do that?," "We would have expected more from you!," "What about how much you are hurting other people?," have no point at all. People are not responsible to each other—there is nothing between them. They cannot let each other down. They cannot fail each other, they only fail. There are no moral relationships to be maintained or to be severed, as people have no stake in what others do.

Second, moral blame is considerably truncated in Antania. It is helpful to contrast three cases occurring within a moral system with moral rights in order to sharpen the distinction between the moral and non-moral uses of "blame." (A) A tree falls in a garden during a storm and does enormous damage to property. The tree is to blame for the damage to be sure; but it is causal and not moral blame we ascribe. For scores of reasons, among them that the tree unlike a parent who runs amuck in a storm and harms his child, is not a moral agent, presumably does not act from choice let alone with intent, and moreover, is not a member of the moral community. It is logically inappropriate to blame the tree morally or to accuse it of wickedness or sinful behavior no matter how much harm it does us.

(B) Suppose that members of a moral community value, among other things, the development of personal talent. Joe Gotrocks, who had the good fortune to inherit both
wealth and talent, has made the morally indefensible choice of living off the former and neglecting the latter. His behavior affects his moral standing in the community; he is regarded as lacking in moral character; he is held up as a bad example to impressionable youngsters; and in his more reflective moments he feels regret at having led a life of indolence letting his talents waste away unused. No specific obligations to others have gone unmet, no one has been directly harmed by his behavior, but other members of his moral community still make an adverse judgment about his conduct.

(C) In the same community, Jimmy Haveless behaves as Joe has done, but he is not financially secure and does not provide even minimal support for his invalid mother, pregnant wife and ten starving babies. His behavior does cause direct harm to people who have a right to expect better from him. He is subject to greater blame than Gotrocks for he not only failed to develop his talent but also failed in his responsibility to his family. In Antania there are no cases like this one. In fact, the sense of blame which finds a home in Antania is weaker even than in (B). Granted, Gotrocks is directly hurting only himself, but what he does affects others at least indirectly. What happens if he loses his fortune? Who will support him then? And besides, he does set a bad example. More importantly, he just is not making the contribution to society rightfully expected from someone of his talents. Inasmuch as he benefits from the contributions made by others they surely have a right to expect him to do something more than sit around all day eating cherry bon-bons and watching the soaps. Reasons of this sort for attaching moral blame can't be offered in Antania since Antanians are islands unto themselves. They have no stake in what others do. They have obligations and they share moral values, but they have no obligations to one another, they have no right to expect good behavior from each other.

They may blame each other for malfeasance and certainly they can be disappointed about substandard conduct, but the concept of blame in Antania is not the full-blown concept found in a system with moral rights. In Antania someone who disobeys a moral rule never fails anyone, he simply fails. Unlike the tree in (A) he could have done otherwise. But it is only in a context in which people are held responsible for what they do because they are moral agents capable

4 Direct harm in Mill's sense.

5 This is essentially Hart's argument.
of choice and where others have moral relations with them and hence a right to expect them to act responsibly that the full-blown concepts of responsibility, and praise and blame can get a foothold. A teacher has no right to expect students to forego a rock show in favor of a symphony—though their parents might. The teacher's relationship with them does not extend so far. A teacher can criticise their lack of discernment but not blame them morally. Teachers do have a right to expect the students not to cheat and here moral blame is appropriate.

For these reasons, I insist that the heart of moral agency is missing in Antania and only an empty shell remains. The normal connections between rule-breaking and responsibility are stretched to the point of rupture. Moral evaluation in the full sense is impossible here, for the notions of individual responsibility and hence praise, blame, etc., rest upon a conception of the individual as possessing independent moral worth, and therefore, being entitled to certain treatment. The Antanians have no such conception.

But while the full-blown conceptions of responsibility must be eliminated in order to make good on the effort to eliminate moral rights, I think in the end even this will not be enough.

An essential feature of a moral system is the contrast between actions which are justifiable, and those which are not. Where individuals regularly fail to act in a justifiable manner this contrast disappears and the moral community ceases to exist. This is to say no more or less than that in a rule-bound activity the rules must be generally obeyed; the very prospect for disobeying a prescriptive rule depends upon the infrequency of disobedience. Therefore, the very possibility of being able to perform as a moral agent depends upon others taking up their share of the burden and taking their responsibilities seriously. If individuals regularly fail to act in a responsible manner, the moral status of everyone is impaired. Where the individual is the seat of responsibility he must be viewed as one who understands moral values, who knows how he is required to act to preserve these values, is capable of doing so, and all things being equal ought to do so. Other persons, also the seat of responsibility, have every right to have others perform as responsible moral agents. Entering into a moral community and thereby limiting one's actions and accepting moral responsibility places one in a relationship with others, and a special right is thereby acquired. Members of a moral community are entitled to have others act in a justifiable manner. Therefore, to have obligations to do X
conceptually entails that others have a right to expect moral conduct and hence, that one has an obligation to them as well as to do X. People have the right to responsible action from others since they have relationships with them and a stake in what they do in virtue of being members of the same moral community. Therefore, if there are even limited notions of moral agency and responsibility in Antania there must also be moral rights.

Moreover, Antanians have another right, one easily overlooked because we so rarely insist upon it. Antanians have the right to punishment. Punishment is appropriate when a moral agent acts (or fails to act), where this action (or the lack of) requires justification, and yet he has neither justification nor an adequate excuse. Hence, punishment of those who are not moral agents, (e.g., the insane) is inappropriate, as is punishment for acts (or the lack of) which do not require justification (e.g., sitting in the sun on a lazy Sunday afternoon), justified acts (e.g., trespassing in order to extinguish a fire), those which are adequately excused (e.g., failing to keep an appointment because of illness), or for occurrences which are not actions of the agent (e.g., contracting cancer).

It is important to recognize that not all correctional behavior is punishment. One stakes a tree in order to straighten it; one places teeth in braces; one confines the insane patient. A therapist explicitly assumes he is dealing with a condition, not with an action, and/or not with a moral agent. In contrast, to apply a punishment (not just a correction) is to affirm that one is dealing with a moral agent who is individually responsible for his action. Punishment is a response to an individual who is at fault and thereby has something to make up to us. A system with punishment is a system which acknowledges that individuals are responsible for what they do and affords them a certain respect as morally competent agents; whereas a system with only correction is a system in which personal moral responsibility (though not causation) and agency is unrecognized.

If, in Antania, someone is treated to a course of therapy instead of being punished for violating a rule, his action is put down as a happening and his status as a moral agent is debased. His personal moral responsibility is extinguished.

It is for this reason that those who have violated moral standards sometimes do insist on their right to punishment. To have the community ignore one's crime or treat it as an illness is to have the community deny that one is responsible for what one does. It is to be treated as a child, an idiot, or as deranged; it is in fact to be treated as less than a person. Criminals do sometimes say, "I am morally competent (though bad), I did know what I was about, I am responsible for what I did and I deserve to be treated as a person. I have the right to be punished." A criminal is still required to justify his actions, and his reasons and arguments may have weight, because his status as a criminal does not reflect on his status as moral agent. Moral agents have the right to punishment; any other system for dealing with misbehavior implies conditions incompatible with moral responsibility.

However inadequate the description I have given of Antania may be, it does illustrate that imagining a moral system without rights requires that we conceive everything differently. It requires that we conceive people who need not be treated differently than sticks and stones, people who do not enter into moral relationships with each other, people who are not independent elements in moral calculation. But when we imagine this, we cannot keep the rest of the moral system as we know it—changes in all other moral concepts must follow. Our moral system is a complex mobile and one part cannot be moved without moving the rest. It is precisely this fact that modeling an analysis of moral rights after legal rights leads us to neglect.

Having considered the moral system of Antania, I now would like to issue some disclaimers and then draw out some of the consequences of the claim that moral rights are conceptually connected to moral agency. The argument I have given does not show that the rights of members of a moral community are universally respected. World history makes an adequate case against that claim. It does show however that all members of a moral community who are subject to moral censure and held responsible for what they do have at least some rights which ought to be respected. The argument does not establish that all members of any community have the same or equal rights. Further, the argument does not show and does not depend upon a claim that all moral obligations have correlative rights. The point which is made in the course of the argument focuses on a conceptual relationship between obligations and rights and attempts to show that a system which has individual moral responsibility must have individual rights as well.
Hence, in a system in which persons are regarded as moral agents having individual responsibility for their actions, the statement "A person has rights" has a status similar to the status of "Promises oblige," or "Murder is immoral." Of course it is not necessary to have a system in which there is moral agency, just as it is not necessary to have a system in which there are promises; but that fact does not argue against the connections between agents and rights and promises and obligations.

What is important to recognize is that in a moral system having a full-blown concept of a person as a moral agent, persons ought to be treated differently than cows or trees just because of their status as agents in the moral community. Our concern for the individual moral agent is indicated by the fact that we are prepared to, and recognize the need to, give reasons and justifications for how we treat people; the fact that we exhibit concern about our conduct vis-a-vis other people regardless of their position, status or other peculiarities and the fact that we hold people responsible for how they act.

In contrast, trees and cows are a part of our moral calculations only in exceptional circumstances. ("It's the oldest living thing," "It's his tree," "It's a sacred cow," "It manufactures oxygen.") It is not, as some have suggested, that we treat people prima facie differently than things. We always, if we have our moral wits about us, take people into account. This is not falsified by the fact that it may be reasonable upon occasion to imprison, or employ capital punishment. Such conduct is only allowable when there are good and sufficient reasons, such conduct requires justification—but one does not normally need a morally good reason for fencing in a cow or chopping down a tree.

Even when we are prepared to offer reasons for how we treat a tree, the reasons are of a different sort and function in a different way than morally relevant reasons. When dealing with things, what we do and how we reason may reflect on our good sense or taste, but is usually morally neutral; whereas when we are dealing with people, the situation is already within a moral context, and hence the sorts of acceptable reasons sharply circumscribed. To know X is a person is to know what sorts of things count for and against treating him in Y ways. To say X is a person is to admit X is in the moral community and is recognition that others in the community have obligations to him because of his place within the community. One cannot know X is a person.
person without knowing something about the moral system and his place within it. The concept of a person is already laden with moral context, for if X is a person, then he counts as an individual unit in whatever moral calculations involve him. He is not part of those calculations because he is a special person ("It is a Ming vase") nor can he be excluded from the account because it is convenient to do so ("The tree was in my way"). He just is the sort of thing which ought to be taken into account, which ought to be given moral consideration, which ought to be treated as a person.

It is because of the relationship between the concept of a person and other moral concepts that investigation of cases of the application of moral terms illuminates the concept of a person. Consider for example, cases in which we ascribe rights, in which we defeat ascription of rights and most importantly, borderline cases. Does a fetus have rights? Is abortion murder? The long-lasting debate over such questions indicates areas where the concept of a person is open, where a decision has yet to be widely accepted. But could we say a fetus is a person but that abortion could never be murder?

To recognize that a person is just the sort of thing that must be taken into account, is acknowledgement that persons have a moral right, a right to moral consideration or, if you like, to be treated as a person.

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8 We may of course criticise a given system for failing to afford the status of moral agent to all who deserve it. It is characteristic that people who deny human rights to some individuals also deny them the status of full-fledged persons. Note that Bentham's insistence that everyone's happiness count is the point at which he implicitly slips moral rights into his theory.