

7

The Peculiar Idea of Respect for a Capacity

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There is a view that is fairly widespread in normative ethical theory that all duties, or at least some broad class of duties like the treatment we owe each other, are based on respect for some capacity common to all persons. The view apparently is intuitively appealing to many moral philosophers, given its popularity, but I think its appeal is largely based on some subtle ambiguities and confusions, and that rejecting the view does not have the pernicious implications that one might fear.

Some clarifications are needed. First, I am not denying that one ought to respect all persons. In fact, I think that we do have a duty to respect all persons, or at least all but the most morally despicable. But admitting that we have such a duty is not the same as claiming that the duty is based on recognizing and respecting some capacity that all persons possess. There could be some other basis for the duty to respect all people (Dean 2014). A consequentialist might think that universal respect promotes the best outcomes, a contractarian might think that idealized bargaining would lead to a requirement of respect for all persons, a divine command theorist might think God commands it, and so on. I am ruling out one strategy in normative ethical theory for providing a basis for all (or a wide set of) duties, namely the strategy of basing such duties on respect for some capacity possessed by all humans.

To further clarify, the view I am questioning is specifically a view that gives a central role to some trait (a capacity) possessed by all actual persons, and then claims that possession of this trait and a requirement of respect for the trait is the basis of moral duties toward those actual persons. So, I doubt that respect for or duties toward actual human persons (or non-human persons if convincing examples turn up) is based directly on some respect-demanding capacity that is universally possessed by all actual persons. This is not to deny that respect, or even respect for persons, may play some important role in the grounding of moral theory. In fact, I think that an *ideal* of respect-for-persons may well play a foundational role in moral theory, but that this respect is idealized respect among idealized persons, for example deliberators arriving at moral principles and rules. This is different from respect for some capacity possessed by all actual persons.

Although my aim is specific, it is not trivial, since many moral philosophers claim that respect for a capacity of (real) persons lies at the heart of their theories. Some who take their approaches to be quite close to Immanuel Kant's, such as

Allen Wood, have taken moral duties to be based on respect for each person's capacities, as have theorists who take their approaches to be more loosely inspired by Kant, such as Thomas Hill, Jr. In applied ethics, principles requiring respect for all persons often are taken to be based on the capacities each person possesses, and are then employed to resolve important issues. Even theories that are not especially close to Kant's, like contractarianism, may be thought to be based on respect for each person's capacity for reasoning and bargaining, and T. M. Scanlon explicitly takes his contractualism to be based on respect for persons, and their capacity for reasonable deliberation and agreement.

I do not claim that this widespread approach to deep normative theory, basing moral duties on respect for a capacity of persons, is incoherent or otherwise impossible to maintain, and I do not doubt that some readers' intuition that this is how morality works will survive the reading of this chapter. But I do hope that clarifying an ambiguity in the idea of a capacity will significantly vitiate the potency of the intuition that some characteristic possessed by all persons demands respect, and I will suggest that many prominent attempts to base moral duties on respect for a capacity of persons trade on this ambiguity in one way or another.

1. An Important Ambiguity

Immanuel Kant is often taken to be the most influential proponent of the view that every person must be respected equally because of some capacity possessed by all, usually described either as a capacity for rationality or a capacity for morality. Although I do not think this is the best reading of Kant's ethics overall, there undeniably is some textual evidence for attributing this view to him.¹ And many moral philosophers have been eager to defend the idea, either as a reading of Kant, or as a central element of a moral theory that is either closely or more loosely based on Kant's ideas. In fact, even approaches that are not particularly Kantian can include this strategy of claiming that respect for some capacity of persons (their capacity for rationality, for choice, for morality...) is the foundation of either all duties or, as in Scanlon's case, a large and central class of duties such as "what we owe each other" (Scanlon 1998).

Given its popularity, it is obvious that there must be something intuitively appealing about the view (which I will abbreviate as RCB, the "respect for a capacity as a basis of morality" view). One of the clearest examples of RCB is the moral theory closely based on Kant's views that Allen Wood presents in *Kantian Ethics*. Wood says, "Kantian ethics rests on a single fundamental value—the dignity or absolute worth of rational nature," and that our complete set of moral duties is determined by "the kinds of conduct required to show respect for this value" (Wood 2008: 95). Wood has identified rational nature as consisting of "humanity," or the "capacity to set ends according to reason," and of "personality,"

which consists of “the capacity to give oneself moral laws and obey them.” Samuel Kerstein takes a more loosely Kantian approach to resolving many issues in bioethics, offering a basic moral principle (influenced by Wood) that demands that we “[a]ct in a way that expresses respect for the worth of humanity,” where “humanity” is identified as having “certain rational capacities, among which are the capacities to set and pursue ends and to conform to self-given moral imperatives” (Kerstein 2013: 155). As Wood says, the picture of respect for the absolute value of some capacity possessed by every person is “[a]n idea that is widely appealing and fundamental to modern moral consciousness” (Wood 2008: 95).

It is worth taking a longer look at what makes RCB intuitively compelling as a big picture. Moral philosophers and many non-philosophers share some of the ideals and beliefs that comprise the view: there ought to be some basic obligations that regulate our treatment of everyone; people ought to be treated equally; respect is very important, and everyone deserves it. And there is something special about everyone, some important reason each person has dignity, regardless of social class, education, gender, race, or wealth. These widespread ideas, when combined with moral philosophers’ more technical approach and knowledge of philosophy’s history, naturally enough may lead to some version of RCB. Since not everyone possesses equal abilities, the special thing that gives each person equal status must not be a developed ability, but a capacity possessed to some degree by every person, whether it is more developed or less. But the capacity ought to be something morally important. The capacity to digest food, for example, seems less morally significant than a capacity for morality, or for rational choice, or for reasoning together to reach agreements. Partly because these capacities are the very things that let us live together, it is plausible that they have a special status or dignity in morality. Since respect is one important way to think about recognizing a person’s dignity or value, we can put RCB in terms of respecting some moral or rational capacity that every person possesses. Of course, the big picture is not the whole case for RCB. Strong arguments never hurt, and later in the essay, I will quickly examine some specific philosophers’ more developed versions of RCB. But part of the appeal of RCB undoubtedly is its intuitive force, seeming to capture many of the important, egalitarian ideas that have helped inch humankind forward morally through the centuries.

Perhaps because of the appeal of the big picture, it is surprisingly common to overlook, or at least understate, an important ambiguity that vitiates RCB’s allure, an ambiguity in the concept of a “capacity.” A capacity can be an unrealized, or only partly realized, potential, as when someone says, “She has the capacity to become an excellent philosopher if she applies herself, but who knows if she’ll ever realize that potential.” Or a capacity can be a more fully realized and displayed ability, as in, “She certainly has the capacity to write a lot of excellent papers, who knows where she finds the time.” The first reading of “capacity,” as potential, is perhaps clearest in negative statements, such as, “I’m sorry to have to say that I don’t

think your daughter really has the capacity to become a world-class soccer player.” The same ambiguity appears in Kant’s own writings on ethics, since the German word “Fähigkeit,” usually translated as “capacity,” can mean either something more like an unrealized potential or like an actively exercised skill or ability. This ambiguity threatens to make RCB less compelling.²

On the large view, if all persons must be treated with respect, and this universal respect for persons is meant to be based on some feature they all possess, then the feature intuitively needs to be quite morally important. Doubts have been raised about whether there is any such characteristic that meets both requirements, of being possessed by all persons, and also being morally significant enough to ground strong requirements of respect. Michael Neumann has asked basically this exact question, whether there is any characteristic actually possessed by all persons that is important enough to justify universal and inviolable duties of respect (Neumann 2004). Carl Cranor has similarly resisted the idea that there is any trait possessed by all persons that is suited to be used to justify broad classes of duties of respect for persons (Cranor 1982; Cranor 1983). It might be thought that some important capacity is well suited to fill the gap. One might argue that a capacity for morality, or for rational thought and choice, is possessed by all persons, and is in fact the defining feature of personhood that makes it possible to live ordered and reasonably peaceful lives together. What more perfect candidates could there be for a feature of persons that grounds universal respect?

But the ambiguity in the idea of a capacity significantly undermines this line of thought. More fully realized moral or rational capacities are not possessed by all actual persons, and the unrealized, or poorly and infrequently exercised, capacities fall far short of being indisputably compelling bases for RCB. Take, for example, the capacity for rational end-setting, choice, and means-end reasoning. This capacity may be just a poorly realized potential, possessed by someone whose actual ends and choices are an incoherent mess that leads to frustration and misery for her and those around her. Or it can be a well-developed ability, possessed by someone who regularly assesses how to prioritize her ends, make them more consistent, and engage in the best means to them. Either person could be said to have a capacity for rational choice and action, but that is because of the ambiguity in the word “capacity.” If we mean only a poorly realized potential for rationality, then all persons have it. If we mean a more fully developed ability, then some people have it and some people do not. As for the question of which “capacity” seems better suited to ground universal respect, one could, of course, insist that even the largely unrealized capacity does so. But once the ambiguity is pointed out, this claim is less convincing. The very nature of the ambiguity, the contrast between a realized and unrealized capacity, provides some pull toward the idea that the former is just better. If we add another feature of the big picture, that one reason the capacity for rationality has foundational importance in morality is that it is what helps us live reasonably decent lives and engage in successful

cooperative ventures, then the case looks even worse for RCB. Only fairly well-developed rationality contributes to the project of living together prosperously, while willy-nilly choices and the setting of inconsistent and unachievable ends is at least as likely to undermine the project.

The same problem applies to a version of RCB that takes the capacity for morality to be the feature that demands respect. As an unrealized potential, let us suppose all persons have this capacity.³ But some people fail badly at realizing the capacity, whether by failing to develop empathy, by consistently prioritizing self-interest over moral requirements, by simply failing to notice the moral dimensions of their actions, or for many other reasons. Others realize it fairly well, trying (for example) to be aware of other people's situations and views, to preserve a balance between personal bonds and general welfare, to develop empathy, and to frame some issues in terms of fairness. Again, it is possible to say that the quite poorly realized potential for morality justifies respect for all persons, but again it is not unreasonable to feel some pull toward thinking that merely possessing a profoundly important potential while doing little or nothing to fulfill it does not seem like an adequate ground for respect. And again, if what one thinks is intuitively important is that morality is what lets us live together and engage in complex cooperation, and that this is what mainly distinguishes us from other animals, then it is important to note that an unrealized capacity for morality is as likely to be an obstacle as an asset to the project.

It may seem that I have missed something obvious. As Stephen Darwall points out in his deservedly influential "Two Kinds of Respect," it is possible to maintain that all persons deserve a basic "recognition respect" as persons, while only some also deserve a further "appraisal respect" for more fully developing their rational or moral capacities. But that distinction only creates a conceptual space for RCB, it does not prove that RCB is a correct view. Darwall's recognition respect "consists in giving appropriate consideration or recognition to some feature of its object in deliberating about what to do" (Darwall 1977: 38) and recognition respect can have various objects. Darwall mentions the law, a person's feelings, nature in general, and social institutions as possible objects of recognition respect, but his main interest is in recognition respect for persons as such, in order to explain how universal respect for persons is consistent with having a different kind of respect (appraisal respect) for a person who accomplishes more or has greater virtues. The distinction is of course relevant to my project, and Darwall and many others have maintained and argued for a universal recognition respect for persons. But the very question at issue here is whether, when it comes to persons, there is some universal "feature of its object," or feature possessed by all persons, that grounds universal recognition respect. The answer is not obvious (Neumann 2004; Cranor 1982, 1983; Williams 1962; Christiano 2015), and I am arguing that once the ambiguity of a "capacity" is pointed out, the only kind of

capacity that can plausibly be attributed to all persons is not well suited to ground universal recognition respect.

Keeping in mind that it would have to be a largely unrealized capacity that serves as a basis for universal respect also points out another intuitive sticking point for RCB. The claim that some unrealized capacity or potential demands profound respect, in fact the most profound respect, in and of itself is inconsistent with the way that we usually think of the reactions that are appropriate to an unrealized capacity or potential. In general, the treatment demanded by a mere potential is intrinsically tied to the eventual realization of the potential, the development of the actual ability or trait. And the most obvious reaction called for by a potential is to encourage the realization of the potential. To recognize the potential of a student to be a brilliant physicist may provide a professor not only with a thrill, but with a feeling of obligation to do what she can to bring the student's potential to fruition. Recognition of the potential of a run-down old house to be restored to a beautiful mansion may produce a feeling that it would be a shame if it is not, and perhaps a feeling that someone really ought to do something. The appropriate reaction to the potential of children in general may well be to feel some obligation to give them a chance to realize their potential. But if all of morality, or some large and central subset of moral duties, is founded on a profound respect for some potential that all persons possess, then the unrealized capacity works in a radically different way from other capacities. The unrealized capacity (for morality, for example, or rational choice) leads not just to a specific obligation to encourage the development of that capacity, but to a much larger, in fact huge, set of all sorts of obligations. At the least, a thorough argument is needed for how some capacity produces such different responses (or such a different form of recognition respect) than other capacities.

One may object that potential or unrealized capacities in general sometimes demand a variety of reactions, not just a reaction of encouraging the development of the capacity. But these reactions all involve an eventual realization of the potential, rather than being a very general respect for the potential in itself. For example, it may be that we have some obligations to seek out or identify potential. But the obligation arises only in virtue of the importance of the ultimate development of the potential—to the extent one is confident the potential will never be realized, the activity of recognizing it becomes pointless. It also may be that some capacities should simply be valued or cherished, such as the potential of a child to do great things in the world, or the potential of a political leader to resolve a long and brutal conflict. But again, this seems to be derived from the value of the ultimate realization of the ability. If the political leader is assassinated, her unrealized potential is more to be mourned than cherished. In general, the value of a potential depends on it becoming realized, and the only obligation obviously generated by a potential in itself is an obligation to encourage its development into an actual ability.

Another response to the claim that RCB owes an explanation of why a rational or moral capacity requires a response that differs from most unrealized capacities could be that, in fact, basing a wide set of our moral duties on the capacity for morality or rationality actually only involves attempting to fully develop those capacities themselves. Maybe an entire system of morality can be based on attempting to develop the human capacity for, say, morality. Certainly some duties can follow plausibly from such a starting point. One might argue that in order to develop properly, a person (at least a human person) requires the satisfaction of some basic needs, such as nutrition, education, and the absence of frequent physical violence or threats of such violence, and corresponding duties could follow to satisfy these needs. But the project of developing a large, systematic set of duties based on respect for the capacity for morality would be problematic. For one thing, it seems to give a bizarre explanation of some basic, widely agreed upon duties—it appears mistaken about what makes some actions wrong. It may be true, for instance, that breaking promises may have an effect of diminishing trust overall, and so discouraging others from keeping their own promises. But that is not a convincing account of what basically makes promise breaking wrong. Similarly, what makes it wrong to physically abuse a child does not seem most fundamentally to be that it may interfere with the full development of the child's moral potential, although this does seem like a terrible effect. A problem of circularity also looms for some duties—even if breaking one's own promises discourages others from keeping theirs, why does this show that we should think it is wrong to break promises, instead of that maybe promise keeping should just be left out of the inventory of what counts as a well-developed moral capacity?

To keep things in context here, I am not claiming that it is obviously implausible to group together some duties into a category of "duties to promote the development of moral capacities." I am only questioning the plausibility of a version of RCB, a freestanding system of duties that begins with each person's unrealized potential for moral development, then makes respect for this unrealized potential lead to the subsequent system of duties without appeal to further foundational moral considerations. For all I have said above, there is no reason to doubt that duties to promote moral development could be one category of duties in a moral system that has independent foundations. That overall picture is plausible enough, so the details of the position make the difference. In fact, Kant himself takes moral self-development to be an important category of duty, along with development of one's natural abilities, other duties to oneself, and duties of love and respect to others. But the most thorough development of Kant's position on this issue, Robert Johnson's *Self-Improvement: An Essay in Kantian Ethics*, does not closely resemble RCB in general or in its derivation of the duty of moral self-improvement (Johnson 2011).

It still may appear I am too hastily dismissing some approaches to moral philosophy that have many adherents. The capabilities approach, a highly respectable

intellectual view that cuts across many disciplines, may sound like it relies on something like RCB, if only because “capability” and “capacity” can serve as synonyms. The capabilities approach proposes that the best standard for measuring human well-being is the extent to which various human capabilities are achieved, such as physical health, freedom of movement, or participation in governance. There is not exact agreement among proponents of the capabilities approach about which capabilities are central to well-being, but the basic claim of its adherents is that measurement or comparison of human well-being is best accomplished by looking at the extent to which the satisfaction of a cluster of these central human capabilities is achieved, rather than by looking at some simpler measure, such as subjective feelings of well-being or possession of economic resources. The capabilities approach may seem to fit naturally with RCB, with RCB serving as a justification of the idea that a person ought to be allowed to achieve her capabilities. But the capabilities approach generally focuses more on the usefulness of capabilities as a metric, rather than on providing a systematic rationale for a duty of promoting the fulfillment of capabilities. Martha Nussbaum, who along with Amartya Sen is one of the two most prominent proponents of the capabilities approach, certainly does not embrace a strategy like RCB. She does emphasize the importance of human dignity, and that every person should receive equal respect, but says that founding her position on one concept such as dignity would be a mistake because it “is an intuitive notion that is by no means utterly clear,” and, “If it is used in isolation, as if it is completely self-evident, it can be used capriciously and inconsistently” (Nussbaum 2011: 29). Instead, she offers a “holistic and nonfoundational” defense of the theory, in which “dignity is one element of the theory, but all of its notions are seen as interconnected, deriving illumination and clarity from one another (Nussbaum 2011: 29–30).⁴

In this section, I have mainly described some of the large-scale features that contribute to the appeal of RCB, and then raised some equally abstract concerns about whether the big picture carries as inexorable an intuitive force as it may first seem. This, of course, leaves it open that some more specific version of RCB may cleverly solve the problems I have pointed out, or that the overall arguments for some specific version are so strong that they outweigh doubts raised about the moral significance of a mere potential. So it is worth taking a look at some more specific philosophers’ positions, to see if they capture RCB’s intuitive appeal while avoiding problems stemming from the ambiguity of the concept of a capacity.

2. How Widespread Is Reliance on the Ambiguity?

A number of prominent contemporary moral theories are described by their authors as being based on respect for every actual person’s capacities, and many other moral theories, including the theories of major historical figures, are often

taken to fit this description. RCB is a popular strategy. In this section, I will take a quick look at some of these theories, to see if they avoid the ambiguity I pointed out in the concept of a capacity.

What this brief survey of RCB theories reveals is that a reliance on the ambiguity persistently accompanies the RCB strategy. There must be something deeply compelling about the slip between the ideas of capacity as an unrealized potential and as a developed ability. And I think this is not just a matter of a verbal slip—it is unlikely that talented, even brilliant, philosophers would again and again just become confused about a word's meaning, and its role at the heart of their theories. Instead, I think the prevalence of the slip suggests that the very ambiguity of the concept of a capacity makes it valuable as a solution to a deep problem in normative ethics. The problem is how to find a way to base a moral system on respect for every actual person. What is something that every actual person has, and which seems worthy of respect? A capacity for something morally significant (rationality, morality). But every person only has it in a weak sense, while what seems worthy of deep recognition respect, or what is suited to play a role as a foundation of moral theory, is the more fully realized capacity. So moral theories embodying RCB are forced into equivocation. I think the theories examined here reveal the temptation of this equivocation. To the extent the theories examined here succeed as basic accounts of normative ethics, they succeed by not really being RCB theories. That is, the versions of the theories that are viable are versions that actually rely on something other than respect for the capacities of actual persons (such as hypothetical respect among some set of idealized deliberators).

I realize that it would be foolish to claim that I have given a thorough examination of several hugely influential theories in a few pages, let alone that I have reached indisputable conclusions about them. Instead, I am offering a *prima facie* observation about the theories, in order to suggest that it is not only RCB in the abstract, but also its particular instantiations, that encounter intuitive problems of equivocation. Perhaps defenders of the particular theories as versions of RCB can produce cogent responses, and I hope to hear some of them.

Kant is often taken to be the most conspicuous advocate of RCB, basing all moral duties on respect for a capacity for rationality and morality that is possessed by all humans, regardless of how well these capacities are realized. It is impossible to fully explore here the possibility here that this is a misreading of Kant, and that he actually takes a more fully realized rational nature, or “good will,” as the cornerstone of morality, though I have argued for this elsewhere (Dean 2006, 2013). But it is worth a look at a passage from *Groundwork for the Metaphysics of Morals* that neatly encapsulates not only the two alternative readings of Kant's ethics (that the fundamental principle of his moral system is based on the special status of a mere capacity for rationality and morality, or on a more fully realized good will), but also the historical roots of the deep ambiguity in the concept of a morally significant capacity (Kant 2002: 235–236 [4:435]). In the

much-cited passage, Kant is describing the one thing that deserves respect as an end in itself and has a dignity, and says it is “morality,” meaning actions like keeping promises and kindness based on principles, or more precisely the “mental attitude” of someone who performs such morally right actions. The one thing that is “infinitely above all price,” and so is worthy of respect, is “a morally good disposition, or virtue.” This would seem clear enough, but near the beginning of the passage, Kant also says, “morality, and humanity so far as it is capable of morality, is the only thing that has dignity.” Because of the word “capable” (*fähig*) it is standard to take the entire passage to be talking about a potential or capacity for acting rightly, possessing a good will, and the like. This illustrates at least that the roots of the ambiguity in the concept of a capacity lie deep, although I think it also reveals the pressure toward equivocation in support of RCB (since the passage overall seems to be talking about a realized and demonstrated capacity, not a mere potential).

When it comes to scholarly commentary on Kant’s principle of treating humanity as an end in itself (which is often taken as equivalent to treating humanity with a profound recognition respect), one of the most influential and widely discussed interpretative arguments is Christine Korsgaard’s “regress argument.” And it relies on the ambiguity between a minimal potential and a realized capacity. Korsgaard offers the regress argument to justify Kant’s principle that humanity is “unconditionally valuable,” and to explain what this “humanity” is that is so valuable. The argument begins with the supposition that there is something valuable about a person’s contingent ends—that if someone chooses to complete a marathon or write a book, that these ends actually have value. But what could explain this value? Korsgaard proposes that within Kant’s framework, what confers value on contingent ends must be that the ends are set by a rational agent. So, “the unconditioned goodness of the goodness of anything is rational choice. To play this role, however, rational nature must itself be something of unconditional value, an end in itself” (Korsgaard 1996: 123). She takes “humanity” to be exactly “the power of rational choice” (in Kant’s terminology, *Willkür*). So far, this is consistent. But she rightly adds that not every end that a rational agent sets is actually good, because immoral ends, which are set in disregard for others’ ends, are not actually good, or in other words, “what you make good by means of your rational choice must be harmonious with what another can make good by means of her rational choice.” So, it appears, only rational choice guided by morality is actually unconditionally valuable. Along these lines, she also notes that her position that the power of choice in itself has unconditional value “might seem, at first sight, somewhat different from the claim with which the *Groundwork* opens, that the good will is of unconditional value.” Her proposed resolution of the tension is that

humanity is the power of rational choice, but only when the choice is fully rational is humanity fully realized. Humanity . . . is completed and perfected only

in the realization of “personality,” which is the good will. But the possession of humanity and the capacity for the good will, whether or not that capacity is realized, is enough to establish a claim on being treated as an unconditional end.

(Korsgaard 1996: 123–124)

The tension between the apparent conclusion of the regress argument (that a good will, or a power of choice governed by morality, is of unconditional value) and Korsgaard’s position that a mere potential for good will has unconditional value is a real and significant threat to her position. But the solution she offers relies on equivocation between the two, the mere potential and the realized capacity.

Moving beyond strict exegesis of Kant’s texts to normative theory that is more loosely informed by Kant’s ideas, Thomas Hill, Jr.’s project of developing a constructivist moral theory inspired by Kant’s kingdom of ends also may seem to be based on respect for the moral capacity or potential of actual human persons. Hill himself sometimes says that his “reconstruction and reconsideration of Kant’s idea” of a kingdom of ends involves, in some sense, a basic recognition respect for actual humans. “In accepting moral constraints as what, ideally, all human beings would agree upon in reasonable joint deliberations, we are, in a sense, respecting each person as a potential co-legislator of the basic principles we must all live by” (Hill 2000c: 101). There also is a good deal of talk about the “potential” or “capacity” of real humans to act as moral legislators, or “their capacity to reciprocate and acknowledge the moral standing of others” (Hill 2000a: 78).

But the actual foundation of Hill’s constructivist theory lies in the choices and agreement of idealized, hypothetical legislators in the kingdom of ends, not the choices of actual humans. As a device to move from basic moral principles or ideals, such as treating humanity as an end in itself, to more specific moral requirements or rules, Hill asks us to imagine an idealized set of deliberators, who are conceived of in exactly the ways that are meant to capture some basic intuitions about sound moral deliberation. So, “the legislators in the kingdom of ends are meant to represent the basic features of a reasonable attitude regarding moral rules” (Hill 2000b: 46). The Kantian legislators will all “recognize one another as ends in themselves” (Hill 2000b: 47) and “all accept the constraints that they jointly will as legislators” (Hill 2000c: 97). In addition, we are to imagine that “their decisions about rules [will] be guided so far as possible by specified moral procedures, values, and criteria of relevance instead of by special preferences and attachments they have as individuals” (Hill 2000b: 47–48). The place where basic recognition respect fits into Hill’s constructivist theory is at this level, of hypothetical moral deliberations in the kingdom of ends. He describes the respect that legislators in the kingdom of ends show one another as “formal or procedural,” consisting of listening to one another, not being manipulative, and other such requirements. He says, “at least formal requirements of respect for persons are implicit in the basic framework for deliberation,” and even acknowledges that it is

a further task to “argue from the Kantian framework to reasonable presumptions of further (substantive) respect,” meaning respectful treatment for actual persons (Hill 2000c: 114). On Hill’s picture, to arrive at the best set of moral rules, we must imagine an idealized situation of deliberation that includes deliberators who show recognition respect for one another. Hill, a thoughtful theorist, sometimes acknowledges that it is still an open question whether this thought experiment involving hypothetical recognition respect among idealized deliberators will lead to duties of respect among actual, non-idealized, persons like us. At other times, he moves too quickly from claims about the hypothetical respect among idealized deliberators to a rule of treating actual persons with respect—“human beings are viewed as if they were jointly authors of binding principles and individually subject to them, once the principles are finally decided” (Hill 2000c: 97). The more basic part of Hill’s theory involves the hypothetical respect among idealized deliberators in the kingdom of ends, and the attempts to directly draw respect among actual humans from that hypothetical kingdom of ends are peripheral and less convincing. Hill’s theory is most plausible when seen not as a version of RCB, deriving duties from respect for actual human persons, but as relying on an ideal of respect among idealized deliberators.

It is not only Kantian theories that may rely on a strategy of RCB. Traditional contractarian theories and their more recent descendants, such as T. M. Scanlon’s contractualism, rely on a metaphor of bargaining or agreement, which may seem in turn to imply respect for the perspective or consent of every actual person. A person, one might think, is only subject to moral requirements to which she agrees, which builds recognition respect into the foundation of morality.

But there are good reasons for moral philosophers in the contract tradition not to suppose the parties to the basic moral agreement are actual human agents, but rather some hypothetical, idealized agents who are imagined to be bargaining in some hypothetical circumstances. Hypothetical circumstances must be imagined, to avoid apparently insurmountable logistical problems. Moreover, real bargainers are highly unlikely to reach unanimous agreement on any set of principles, even principles that benefit them all, and any principles they did arrive at would be unlikely to match widespread intuitions about what is morally required. This is partly because actual humans are poor reasoners—they are inconsistent, prone to failures of understanding and attention, and frequently bad at both logical inferences and means-end reasoning. They also frequently make choices based on envy, resentment, bigotry, superstition, stubborn commitments to specific political and religious ideology, and inaccurate assessments of their own abilities and desert. For these sorts of reasons, it appears that any viable contract-based approach to arriving at moral principles must employ both hypothetical circumstances of deliberation and rational deliberators who are in some way idealized.

Traditional contractarian theories, which attempt to justify moral principles by showing that they serve everyone’s self-interest, have employed some sort of

idealization of both the circumstances of deliberation and the moral deliberators themselves. Hobbes appears most directly to concede idealization of the former kind, by admitting that the circumstances in which rules of justice arise (the state of nature) may never have existed as a matter of historical fact (Hobbes 1994: ch. 13). But he also grants that actual human individuals can be mistaken in their reasoning about the principles of justice that they should accept on self-interested grounds,⁵ and so implicitly recognizes a need to identify these “Laws of Nature” through an examination of the choices of idealized rather than actual deliberators.⁶ David Gauthier, the most influential contemporary contractarian, idealizes both the deliberators whose choices lead to moral requirements and the circumstances of deliberation. He identifies moral norms as the outcome of agreement among rational, effective maximizers of their own utility, from an initial bargaining position that excludes benefits that the bargainers have gained by worsening others’ situations (Gauthier 1986).

While traditional contractarian theories take self-interest to be the basic motive in the hypothetical bargaining that leads to moral requirements, some recent theories in the contract tradition also build more substantial moral ideas into the bargaining process. T. M. Scanlon’s contractualism is an example of such a theory. Scanlon attempts to give a criterion for moral wrongness within an important range of actions, namely actions that involve how people treat one another. Specifically, Scanlon develops and defends a standard of moral wrongness for actions that affect others, saying that

an act is wrong if its performance under the circumstances would be disallowed by any set of principles for the general regulation of behavior that no one could reasonably reject as a basis for informed, unforced general agreement.

(Scanlon 1998: 153)

Scanlon’s account may appear to be based on recognition respect for persons in that it determines the moral status of specific actions by considering the standpoint of each person (asking a question about what no one could reasonably reject). Scanlon himself takes his theory to give a central intuitive role to the idea of justifiability to others. Actions are wrong if they are not justifiable to others, and the test for this justifiability is to ask whether anyone could reasonably reject the principles on which the action is based. His contractualist account is meant to capture an intuitively appealing ideal of a “relation of mutual recognition” with others, which sounds like a kind of recognition respect (Scanlon 1998: 162). And Scanlon does not hesitate to characterize his theory as being based on mutual respect. He says that at the level of seeking general principles for how to treat one another, “the idea of justifiability to others and the idea of respecting their value ceases to be distinct” (Scanlon 1998: 171). So he does take his view to give a foundational role to respect for persons, in some sense.

And sometimes, it appears that he takes his theory to be a version of what I have called RCB, giving a foundational role to respect for actual human persons. In several passages, he says that the point of acting on the principles that his contractualist procedure regards as justifiable is to show respect for humans, or rational beings, and he seems to mean actual human beings. So, “respecting the value of human (rational) life requires us to treat rational creatures only in ways that would be allowed by principles that they could not reasonably reject insofar as they, too, were seeking principles of mutual governance” (Scanlon 1998: 106). Or similarly, “Human beings are capable of assessing reasons and justifications, and proper respect for their distinctive value involves treating them only in ways that they could, by proper exercise of this capacity, recognize as justifiable” (Scanlon 1998: 169).

But the respect that is actually central to Scanlon’s contractualism is not respect for actual persons, but respect among idealized deliberators as a structural feature of a hypothetical position of deliberation. Scanlon rightly recognizes that attempting to test the principle of any action by asking whether any actual human beings would reject it “is a recipe for moral gridlock, since every principle is one that someone has a reason to object to” (Scanlon 1998: 170). So the justifiability that is central to his contractualism “is not the activity of actual justification to others,” and the question we are to ask about rejection is not a question about whether actual human agents would reject a principle (Scanlon 1998: 168). The way Scanlon differentiates between people’s actual reactions to a proposed principle and the reasonable reaction is to have us imagine that the principle is being considered by deliberators who are all committed to finding and acting on “principles for the general regulation of behavior” that could not be rejected by anyone “similarly motivated,”⁷ meaning “insofar as they, too, were seeking principles of mutual governance which other rational creatures could not reasonably reject” (Scanlon 1998: 106). The very idea of reasonable rejection asks us to imagine a hypothetical union of deliberators who share the joint project of finding principles to live by. Given this, when Scanlon says he views morality as “a system of co-deliberation” (Scanlon 1998: 268), the co-deliberators are not the set (or a subset) of actual human individuals, but idealized deliberators who are all committed to finding mutually acceptable principles of conduct.

It may seem that in discussing Hill’s constructivism and Scanlon’s contractualism, I have simply missed something. After all, are the developed capacity for mutually respectful joint deliberation and the mere potential for it not the very same thing, just developed to different degrees? There are brighter and duller shades of red, but they are all red. In the same way one might think more or less developed capacities for morality or rational agreement are all the same characteristic.

But this line of thinking is not compelling, regarding the role in normative theory of a potential versus a developed capacity. The whole point of the idealization involved in the hypothetical situations of deliberation that are central to

contractualism and other forms of constructivism is that actual persons lack the sufficiently developed moral characteristics that are central to the idealized deliberation—if actual human persons realized their capacities, then normative theory could rest on their actual agreements. And if what is supposedly special about a capacity (for morality, reasonable deliberation, or rationality) is that it makes it possible for us to live together under a set of coherent rules, it should be recalled, as argued above, that poorly developed potentials for such traits actually are as likely to undermine the overall project as to bolster it. We can add, after looking at some instantiations of RCB theory, that poorly developed potentials for such traits not only undermine the actual achievement of morally ordered societies in the real world, but also undermine the theoretical project of imagining such societies in the abstract in order to arrive at moral rules. It should not come as a surprise that in moral philosophy our attitudes toward a potential and a realized capacity are very different, since this is true of capacities in general. The tiny, colorful poison dart tree frogs of Central and South America certainly have the capacity to be highly poisonous, and in their native habitat this capacity is realized (even touching one can kill you). But scientists have discovered that this is because they accumulate and concentrate chemicals from the insects they consume, and when kept in captivity with a different diet, their capacity for toxicity is an unrealized potential. To say that the potential toxicity of a captive frog is the very same characteristic as the actual toxicity of a wild frog is implausible, as reflected in the different ways one would treat the two frogs. If an unrealized potential and a realized capacity are to be regarded as the same trait in normative theory, then this is not because of a general feature of capacities. It is an anomalous divergence from the way we regard capacities in general.

Conclusion

I have tried to raise doubts about whether RCB, the strategy of basing normative theory on respect for a capacity that all persons possess, is as unproblematic and alluring an approach as some philosophers take it to be.

The point is not to deny that every person should be respected in substantial ways, by having their viewpoints and welfare taken into account, by being listened to and taken seriously, or by being given a role in policy decisions that affect them. The point, instead, is about the theoretical basis for moral duties, and is meant to caution against relying dogmatically on an idea that any legitimate moral or political theory must begin by assuming that all persons are equally worthy of respect. Questioning dogma often leads to sounder theories, and it has recently become more acceptable to question the particular piece of cherished canon that claims every person is equally worthy of respect.⁸ This essay has focused on raising doubts about one attempt to bolster this once sacrosanct position,

by relying on the apparently ambiguous concept of respect for a capacity for rationality or morality.⁹

Notes

1. For contrary readings of Kant's ethics, see Dean 2013, Dean 2006.
2. I do not mean to imply that the ambiguity has never been noticed by defenders of RCB. For example, Paul Formosa recognizes the ambiguity, and decides that in order to make moral principles apply to ordinary humans, it is necessary to take an unrealized capacity as the object of foundational moral respect (Formosa 2017: 123–124).
3. I am putting aside some possible complications, for example, the case of psychopaths.
4. Similar structural differences between standard approaches to virtue ethics and to the version of RCB that I questioned above should allay concerns that I am dismissing virtue ethics in a quick paragraph. Virtue ethics does give a central role, of course, to developing one's moral capacities. But I do not think they focus on overall moral potential, then attempt to develop a systematic set of all or most human duties based on respect for every person's moral capacities.
5. For example, the Foole rejects the rule requiring keeping of covenants (Hobbes 1994: ch. 15).
6. Hobbes's basic definition of a law of nature implies that it is prescriptive and discovered by reason, so it may be obeyed or disobeyed (Hobbes 1994: ch. 14).
7. Scanlon 1998: 4. Scanlon uses the phrase "similarly motivated" throughout the book, e.g., 162, 202.
8. See Steinhoff 2015, and other essays in that volume. I take it that Carter 2011 also is best taken to be questioning whether there is some characteristic that makes every person worthy of respect, although Carter does not emphasize that reading of his position. Carter first points out the difficulties in claiming that possessing some minimum level of a characteristic is sufficient to ground equal respect for all, then argues for an independent requirement of "opacity respect," or not looking too closely at whether the characteristics of some particular persons make them worthy of more, or less, respect. But this seems to suggest that, in fact, agents do deserve unequal levels of respect.
9. For helpful comments on earlier versions of this essay I thank Carl Ficarotta, Eric Barnes, Chris Johns, and the participants in a workshop on respect and appreciation held in Chapel Hill, NC on May 20, 2017.

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