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**Book Chapter** 

Two Kinds of Moral Competence: Moral Agent, Moral Judge

COVA, Florian

#### **Abstract**

In this paper, I argue that some of the disagreements about the continuity or discontinuity of human moral life with that of animals can be assuaged by drawing a distinction between two senses in which someone can be a 'moral being': being a moral agent (i.e. being morally responsible for one's action) and being a moral judge (i.e. being able to form moral judgments). More precisely, I argue that it is not necessary to be a moral judge to be a moral agent, because moral actions (actions we are morally responsible for) don't need to stem from moral judgments. Consequently, I argue that, even if moral judgment is highly likely to be a human specificity, moral agency is something that we might share with other animals, given that the only requisite to be a moral agent is to be able to be motivated by the fact that other entities do have interests.

### <u>Reference</u>

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	Given Name	Florian
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	Division	Swiss Center for Affective Sciences
	Organization	University of Geneva
	Address	Geneva, Switzerland
	Email	florian.cova@gmail.com
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### Chapter 7 Two Kinds of Moral Competence; Moral Agent, Moral Judge

Florian Cova

#### What Makes Us Moral? And the Continuism/ 7.1 Discontinuism Debate

There are many ways of understanding the Big Question 'what makes us moral?' 7 One way to understand it is to understand it as bearing on the psychological 8 capacities that allow us to be moral beings. Thus, it can be paraphrased in the 9 following way:

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(BQ) What psychological capacities allowed us to become moral beings?

Note that the question is not what capacities are necessary for a being to count as a 12 moral being. For all we know, there might be different capacities that are separately 13 sufficient, but not necessary, to make a being a moral being. What we are interested 14 in here is what capacities actually made us (and continue to make us) moral beings. 15

This question is undoubtedly fascinating, and this is why it is currently in- 16 vestigated by philosophers, psychologists, neuroscientists, evolutionary biologists, 17 economists, anthropologists and others I surely forgot. It would be preposterous to 18 claim that I actually have the answer to this question, so my goal won't be to answer it. My goal is rather to point out that a preliminary question must be answered if we 20 are to find the answer to our Big Question. To discover what made us moral, we must 21 first understand what it is 'to be moral' and what it means to be a 'moral being'.

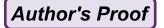
Indeed, answers to (BQ) come into two very different forms: Continuists believe 23 that the psychological capacities required for being a moral being are not unique 24 to humans and that at least rudimentary traces of these capacities can be found in 25 other species (most likely apes). Discontinuists, on the contrary, believe that these 26 psychological capacities are unique to humans and that human beings are the only 27 moral beings we know of.

AO1 Swiss Center for Affective Sciences, University of Geneva, Geneva, Switzerland e-mail: florian.cova@gmail.com

F. Cova (⊠)

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A paradigmatic example of this debate is offered in Frans de Waal's book 29 *Primates and philosophers: How morality evolved.* In this book, De Waal takes a 30 continuist stance in describing the school of thought he defends:

[This school] views morality as a direct outgrowth of the social instincts that we share with other animals. In the latter view, morality is neither unique to us nor a conscious decision taken at a specific point in time: it is the product of social evolution. (De Waal 1997, p. 6)

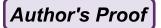
De Waal champions this theory by pointing to the different psychological capacities 35 he claims we share with apes (perspective taking, emotions like gratitude) and to 36 reports of 'moral behaviours' (help, consolation). This line of argument directly 37 clashes with the conception of certain of his respondents. For example, Christine 38 Korsgaard (De Waal 1997, p. 104) claims that 'morality represents a break with our 39 animal past'. And indeed, in accordance with this conception, some psychologists 40 have argued that morality is the product of new psychological capacities that are 41 not to be found in non-human animals, some 'sense of fairness' (Baumard 2010) or 42 'universal moral grammar' (Mikhail 2011).

These two theses seem to me equally plausible, though they seem to cancel 44 one another: when someone describes the delightful stories of seemingly moral 45 behaviour in the animal realm, we are moved, and find the conditions set by the 46 first theory too high. But when we listen to advocates of the human specificity, we 47 can't help notice that there's really something special about human beings, i.e. the 48 complexities of their interrogations about what is right or wrong. After all, we are 49 the only known species to do moral philosophy.

Here, I want to loosen this tension by suggesting that the disagreement between 51 continuists and discontinuists can be (partly) resolved because it (partly) stems from 52 the conflation between two ways of counting as a moral being. First, one can be a 53 moral being because one is morally responsible of (some of) his action: thus, one is 54 a moral being in the sense of being a *moral agent*. Then, one can be a moral being in 55 the sense that one is able to judge whether something is right or wrong: in this sense, 56 one is a moral being in the sense of being a *moral judge*. Indeed, once this distinction 57 made one can argue that both sides are right (and wrong) respective to one sense of 58 counting as a moral being. More precisely, I will argue that it is possible to be 59 a continuist about moral agency while being a discontinuist about moral judgment, 60 and argue that we share the psychological bases for moral agency with other animals 61 while we are the only known species able to form moral judgments.

Consequently, the main point I propose to defend here will be that these two ways 63 of being moral can be dissociated and that one can be a moral agent without being a 64 moral judge. I won't try to argue for a *double* dissociation and to prove that there are 65 also cases of moral judges that are not moral agents. Maybe such cases can be found 66 in children (that we do not always judge responsible for their action but that are 67 able to form at least rudimentary moral evaluations)<sup>1</sup> or in patients suffering from 68

<sup>&</sup>lt;sup>1</sup>Famous psychological studies led by Turiel suggest that, by the age of 4, children are able to understand moral concepts and use them to form moral judgments. For example, they are



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particular neuropsychological deficits.<sup>2</sup> Nevertheless, such cases being about nonmatured or pathological individuals that are not representative of the full potential 70 of their species, they won't be relevant to the present discussion. I will then stick 71 to the more plausible claim that a species can be endowed with the psychological 72 requirements for moral agency while being unable to form moral judgment. 73

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# 7.2 The Epistemic Argument Against the Moral Agency/Moral Judgment Dissociation

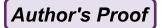
I will take as a starting point that it is not *prima facie* implausible that one can 76 be a moral agent without being a moral judge. As a proof, we can see that one of 77 the foundational myths of occidental culture, in which many people have believed, 78 relies on such a dissociation. Let's go back to the famous episode of *Genesis*, when 79 Adam and Eve eat the forbidden fruit. What happens then? What is said is that, by 80 eating the fruit, their 'eyes opened' and they came to 'know good and evil' (*Genesis* 81 3:5). Now, remember that Adam and Eve are finally punished for having eaten the 82 fruit: so, by eating the fruit, they did something wrong. Nevertheless, at the time 83 they weren't able to recognize right from wrong yet. So, what is suggested by this 84 story is that a being can be morally responsible for an action he performed at a time 85 he wasn't able to recognize right from wrong.

Once granted that it is not obvious that moral judgment is required for moral 87 agency and that one cannot be a moral agent without being a moral judge, I will 88 argue that the burden of the proof lies with those who consider moral judgment as a 89 requirement for moral agency. The thesis that one cannot be a moral agent without 90 being a moral judge amounts to the thesis that the two concepts of 'moral agency' 91 and 'moral ignorance' are incompatible. But, since each concept can be understood 92 separately, and since two logically independent concepts are *prima facie* compatible, 93 it seems to be the position by default that moral agency and moral ignorance are 94 compatible. Thus, if there is no argument in favour of the thesis that moral agency 95 and moral ignorance are incompatible, we are justified in thinking that they are 96 compatible.

able to distinguish moral rules (that are universally valid and independent from authority) from conventional rules (that are only locally valid and dependent on authority) or prudential rules (see Turiel 2002 for a review).

<sup>2</sup>For example, patients with lesions in the prefrontal cortex are still able to make moral judgments, but are much less prone to act according to these judgments, due to emotional and motivational deficits (Damasio 1995). Patients suffering from aboulia, who have lost all motivation, are also plausible cases of people able to form moral judgments but lacking moral motivations (Marit and Wilkosz 2005).

<sup>&</sup>lt;sup>3</sup>I define 'moral agency' as the ability to be morally responsible for (some of) one's action and 'moral ignorance' as the inability to judge something as morally right or wrong.



Nevertheless, there are such arguments. So, before concluding that moral agency 98 and moral ignorance are compatible, we must examine these arguments. I will 99 distinguish two main kinds of arguments, each one corresponding to a certain kind 100 of condition for moral responsibility. It is usual in the literature about freedom 101 and moral responsibility to distinguish two categories of conditions for moral 102 responsibility: the *epistemic* conditions (what one has to know for being responsible 103 for one's action) and the *freedom* conditions (the type of control one has to exert on 104 one's action for being responsible).

As far as the epistemic conditions are concerned, it is commonplace to say 106 that one had to know and understand what one was doing for being morally 107 responsible. Some have understood this condition as implying that one must be able 108 to understand the moral significance of one's action to be morally responsible for 109 them. But if this is true, then moral judgment is a condition for moral agency, and 110 one cannot be a moral agent without the capacity to form moral judgment.

#### The Epistemic Conditions for Moral Responsibility 7.2.1

To give an example of the debate about the epistemic conditions for moral responsibility, let's have a look at the debate on the moral responsibility of psychopathic 114 individuals. Psychological studies have recently suggested that psychopaths are 115 complicated cases: it is not even sure that they are able to form genuine moral 116 judgments. Studies suggest that they fail to distinguish between moral rules and 117 conventional rules, a distinction 'normal' people master around the age of 4.4 For 118 this reason, people like Levy have suggested that we should not hold psychopaths re- 119 sponsible for their action: 'Moral responsibility requires moral knowledge; because 120 psychopaths lack this knowledge through no fault of their own, we must refrain from 121 blaming them. Psychopaths are victims, as well as victimizers' (Levy 2008, p. 136). 122

The principle according to which moral responsibility requires moral knowledge 123 is widely endorsed. For example, a similar principle is part of the Model Penal Code 124 of the American Law Institute:

A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he lacks substantial capacity either to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law.

Now, this principle is just a way among others to state that moral agency requires 129 moral knowledge – but what reasons do we have to endorse this principle?

One reason I see is that this principle seems to correspond to a kind of excuses 131 we use to accept for wrongdoing. For example, someone who has harmed another 132 accidentally can say that 'he didn't know he was doing something wrong'. I don't 133 think that this is enough to support this principle. Surely, if we imagine that someone 134

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<sup>&</sup>lt;sup>4</sup>See Blair (1995, 1997) and footnote 1 in this text.

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offers a child a peanut butter sandwich without knowing that the child is allergic to 135 peanut butter, and that this action results in the child being driven to the hospital, 136 we would accept an excuse such as 'I didn't know I was doing something wrong' (meaning: I didn't know that my action would have such dreadful consequences). 138 But we would be less willing to accept it if the person actually intended to kill the 139 child by poisoning her with peanut butter and tried to escape blame by saying she 140 didn't know that poisoning was wrong.

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Contrasting these two examples, we can draw a distinction already made by 142 Aristotle (Nicomachean Ethics, III, 2) between two kinds of moral ignorance: 143 ignorance of the particular circumstances of an act (what exactly has happened) and 144 ignorance of the moral value of this act (if the act was permissible or forbidden). 145 According to him, only the first kind of ignorance can be a valid excuse, the second 146 kind of ignorance being the mark of vice. Accordingly, things are complicated 147 because Aristotle also thinks that, ultimately, moral ignorance in this second sense 148 is the result of the agent's choice. So, if moral ignorance in this sense is not an 149 exculpatory condition, that would be because the agent is ultimately responsible for 150 it. I do not wish to enter in an exegesis of Aristotle's conception of moral ignorance: 151 all I'm interested in here is the distinction between moral ignorance of the particular 152 circumstances of an action (factual ignorance) and moral ignorance of the moral 153 value of this action (moral ignorance in the strong sense). This distinction allows us 154 to see that even if it is intuitive to say of someone that he should be forgiven because 155 he didn't know what he was doing, such expressions are more commonly used in 156 cases of factual ignorance, when we excuse an agent because he didn't have a full 157 understanding of the impact and consequences of his action.

Thus, I don't think it is obvious that moral ignorance is a mitigating circum- 159 stance. Though this has been accepted as a valid principle by philosophers and 160 courts, the idea seems to have no clear intuitive appeal. One explanation for its 161 acceptance is that it is the product of an overgeneralization of the intuitive principle 162 according to which ignorance of the nature of an action can be a valid excuse, that 163 ended up including in the 'nature' of an action its moral value.

### Moral Knowledge and Acting for Good Reasons

Another reason to endorse this principle is that it might help us explain the difference 166 between good actions done from good intentions (that are praiseworthy) and good 167 actions that are done without good intentions (and often are not praiseworthy). Let's 168 take the following (paradigmatic) example<sup>5</sup>:

(Pond) As a man walks by a pond, he notices a young child drowning. He dives into the pond to save the child and brings the child back to the shore.

<sup>5</sup>This case is inspired by Singer (1972).

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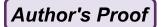
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Now, should we praise this man for having saved the child? It depends on why he 172 saved the child. As a philosopher will justly point out, we shouldn't (and wouldn't) 173 praise this man if he didn't care at all about the child and saved it only because 174 he hoped to receive a reward or to be considered as a hero. This means that, to be 175 praiseworthy, our man must have acted for the good reasons.

But what does it mean to act for the good reasons? Following Kant, a philosopher 177 could advance the following thesis:

(Reflectivism) An agent deserved to be praised (or blamed) for having performed a given action A only if he did so because he considered this action to be good (or thought this action to be bad).

This principle gives a very simple answer to our problem: the man who saves the 182 child only because he cared about the reward does not deserve praise because he 183 did not do it because he thought it to be good (i.e. by reason of respect for the 184 moral law, to use a Kantian expression). Though very simple, Reflectivism has an important implication: that an agent can be morally responsible for an action only if 186 he has the capacity to judge something as morally good (or wrong). Thus, the need 187 to distinguish between praiseworthy good actions and good actions not performed 188 for the good reasons might be a support for this principle, because it would be the 189 best way to distinguish the two kinds of good actions.

But are we forced to endorse Reflectivism if we are to make a difference between 191 these two kinds of good actions? I don't think so. To show why, I'll propose a 192 number of counter-arguments. All of them rely on appeal to intuitions, and so are 193 not strong enough to conclude that Reflectivism is false. Nevertheless, I'll argue 194 they are sufficient to show that we have no reason to endorse Reflectivism.

Let's start with (i) the argument from impulsivity. Here is a slightly modified 196 version of Pond:

(Pond\*) As a man walks by a pond, he notices a young child drowning. Understanding that the child will soon die, he immediately dives into the pond to save the child, without taking the time to figure whether it's the right thing to do. He succeeds in retrieving the child.

#### And here is a second variant:

(Pond\*\*) As a man walks by a pond, he notices a young child drowning. Due to his strict moral education, this man has taken the habit (and is motivated) to do what he thinks is right. Realizing that the children will soon die and that saving him would be something right, he dives into the pond to save the child. He succeeds in retrieving the child.

These two men have different reasons for acting. Our first man doesn't take time 206 to think: he doesn't classify his action as 'right' before acting. If we asked him 207 about his reasons for acting, he would answer something like: 'because the child 208 would have died'. Our second man goes through some kind of moral reasoning, 209 and saves the child because he categorizes this action as 'right'. If we asked him 210 about his reasons for acting, he would answer: 'because it was the right thing to do'. 211 According to Reflectivism, only the second one should be considered praiseworthy, 212 because he's the only one to act on the basis of a moral judgment (the judgment that 213 it is right to save the child and wrong to let him die).



#### 7 Two Kinds of Moral Competence; Moral Agent, Moral Judge

But does this conclusion seem right? I don't think so. I rather think that, if we 215 compare those two cases, the man in Pond\* is at least as praiseworthy as the man 216 in Pond\*\*. In fact, there even seems to be something wrong with our second man: 217 shouldn't he be more concerned about the child rather than whether it is right or 218 wrong to save him?

Reflectivism, in the way I presented it, seems to discredit every good action 220 that would look like a 'moral reflex'. If your friend is about to stumble, and you 221 instinctively grab him to prevent his fall, then you shouldn't be praised for your 222 action, since you did that only because you cared about your friend, and not because 223 you judged that helping your friend was the right thing to do. And Reflectivism 224 doesn't stop there: it also discredits actions that come from emotional reactions and 225 are not mediated by moral reasoning. If a man, seeing a homeless person freezing in 226 the winter is suddenly overwhelmed by compassion and gives him his coat, without 227 wondering whether this is right or not, but just wanting to help this particular person, 228 then Reflectivism should conclude that his action is not praiseworthy. However, we 229 tend to praise and even to be moved by such actions. Finally, Reflectivism seems 230 to lead to the conclusion that, when a friend or a parent helps us, he is all the more 231 praiseworthy for helping us because it was the right thing to do. But, this doesn't 232 seem right: we do not want our friends or our parents to help us because they think 233 it's the right thing to do – we want them to help us because they actually care about 234 us. So, to sum up, Reflectivism goes against most of our basic moral appreciations.<sup>6</sup> 235

One could object that we focused on cases in which we praise agents for right 236 actions, and that Reflectivism is much more plausible when it comes to wrong 237 actions: is it not intuitive that we shouldn't blame (and punish) those who didn't 238 know that what they did was wrong?

This is far from clear. Let's imagine the following case (drawn from Pizarro 240 et al. 2003):

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(Smash) Because of his overwhelming and uncontrollable anger, Jack impulsively smashed the window of the car parked in front of him because it was parked too close to his.

Let's say that Jack had a bad day, was irritated, and smashed the window without 244 taking the time to assess whether it was right or wrong. Let's also say that, though 245 he realized afterwards that it was the wrong thing to do, he did not regret this action 246 at great length. Should we say that Jack is not responsible and does not deserve 247 blame for what he did? That he hasn't the duty to pay for repairs? That seems very 248 counter-intuitive.<sup>7</sup>

<sup>&</sup>lt;sup>6</sup>One might say that these appreciations are not really *moral* and that the praise we attribute agents for caring about their relative has nothing to do with moral praise. This is indeed a possibility; nevertheless it seems me very unlikely: a mother who doesn't care about her children elicits from us blame that is very likely moral blame.

<sup>&</sup>lt;sup>7</sup>The results obtained by Pizarro et al. show that many participants considered Jack responsible and blameworthy for having smashed the window. That Jack had not taken the time to realize that what he was doing was wrong was no consideration.

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Another argument that could be opposed to Reflectivism are the cases of 'inverse 250 akrasia'. By 'inverse akrasia', Arpaly and Schroeder (1999) mean cases in which 251 the agent fails to do what he thinks is right and does what he thinks is wrong, but in 252 which we actually consider wrong what he failed to do and right what he actually 253 did. A famous example is the case of Huckleberry Finn, who keeps helping Jim the 254 runaway slave while thinking that the right course of action is to return the slave to 255 his lawful owner. In this case, Kantianism should predict that we shouldn't praise 256 Huckleberry for helping Jim, since he doesn't think that it is the right thing to do.

Still, many people still judge that Huckleberry is responsible and deserves praise 258 for his actions. So, it is still not intuitive that one has to know that he's doing 259 something right (or wrong) to be responsible for his actions.

One might object that inverse akrasia is no definitive objection to Reflectivism 261 if we switch to a weaker version according to which for an agent to be morally 262 responsible for his actions, this agent has just to assess the moral value of what 263 he's doing, but not to correctly assess this value. If we drop the 'correctly', 264 then Reflectivism can accommodate these cases, because Huckleberry (incorrectly) 265 assesses the moral value of their actions.

This less demanding version still can't account for cases of impulsive actions. 267 Surely, Reflectivism could once again lower its demands to become able to 268 accommodate such cases. For example, it could say that people don't actually have 269 to act upon the basis of moral judgments to be responsible for their actions – but 270 that they must only have the ability to judge that what they have done is right or 271 wrong. In this version however, Reflectivism loses one of its main advantages and 272 motivations: it can no longer explain the difference between the man who saves the 273 child because he cares about it and the man who saves the child because he expects 274 a reward – both have the ability to judge a posteriori that what they did (saving the 275 child) was the right thing to do. Of course, Reflectivism can try to account for this 276 difference by another feature of these cases, but if it does so, then we have no longer 277 any reason to endorse it, because our reason to endorse it was to account for this 278 difference.

Another objection to this weaker version of Reflectivism is that it is hard to see 280 why the mere fact of having this ability should make a difference if the fact of using 281 it doesn't. We can compare this objection to Frankfurt's famous argument against 282 the Principle of Alternate Possibilities (Frankfurt 1969). The Principle of Alternate 283 Possibilities is a principle that states that an agent cannot be morally responsible for 284 what he did if he couldn't have done otherwise. Against this principle, Frankfurt 285 has us imagine cases in which an agent has no alternative (and thus cannot do 286 otherwise), but in which this fact doesn't motivate the subject (e.g. John decides 287 by himself to kill his wife while, unbeknownst to him, Black has implanted in his 288 brain a chip that would have compelled John to kill his wife if he hadn't chosen to 289 do it by himself). In this case, according to Frankfurt, the agent's action is exactly 290 the same as in a parallel case in which he has an alternative (the case in which John 291 decides by himself to kill his wife but Black and the chip do not exist). So, Frankfurt 292 asks, why should we make any difference between these two actions? If John is 293 responsible when he has an alternative, he should also be responsible when he has 294

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none, provided that the lack of alternative does not cause his action in any way. On 295 this model, we can take our case Pond\* and imagine a parallel case Pond\*\*\* in 296 which the agent has an innate psychological defect that prevents him to understand 297 what is good and what is bad. Since in Pond\* such knowledge doesn't play any role 298 in the production of the action, why should we treat the agent's action in Pond\*\*\* differently and deny praise to the agent?

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To follow this idea further, let's imagine an individual who, due to very specific 301 and focal brain damages he suffered at birth, is deprived of moral concepts: 302 he doesn't understand what words like 'right', 'wrong', 'fair' or 'unfair' mean. 303 This individual has no other cognitive issues whatsoever: he's fully capable of 304 understanding what he's doing and the consequences of this action. Let's now 305 say that this individual is also (and was before suffering from brain damages) a 306 dangerous criminal: he enjoys kidnapping people and takes pleasure torturing them. 307 Remember that he perfectly understands what he's doing: he knows what pain is, 308 and he knows that his victims suffer from the treatment he inflicts on them. He 309 also knows that they don't want to suffer and that torture is a highly traumatizing 310 experience. He just doesn't know whether it is 'right' or 'wrong' to torture people. 311 Is it obvious that this individual is not responsible for what he did? And that he 312 doesn't deserve blame? I don't think so. We have the feeling that, even if he can't 313 form moral judgment about his actions, this individual is a terrible person. He does 314 something wrong (torturing people) for clearly vicious motives (because he enjoys 315 watching people suffering).

Let's now imagine the reverse individual (what I call a 'reverse psychopath'): 317 a man who does not have access to moral concepts but deeply cares about other 318 persons (because he's deeply empathetic), so that he spends most of his time helping 319 people. Should we be reluctant to praise him? Should we consider that the people 320 he helps don't have to be grateful? That seems a wrong conclusion.8

Of course, these arguments are far from being inescapable: they are mostly 322 appeals to our intuitions. But the fact that our intuitions go against Reflectivism is 323 prima facie a reason to reject it, unless its adherents provide a convincing argument. 324 And if we have no reason to endorse Reflectivism, then I can't think of any other 325 reason to accept the thesis according to which moral ignorance is incompatible with 326 moral agency.

<sup>&</sup>lt;sup>8</sup>One could consider that these example are not sufficient because it is one thing to evaluate persons (as nice or vicious) and another to attribute them responsibility for their action. This is true. Nevertheless, I think we also have the intuition in those cases that these persons are responsible for their actions. Let's take the reverse psychopath and imagine that he helps you (by saving your life). It seems quite natural to feel grateful and consider that you owe him something. But this feeling cannot be accounted by a mere judgment of 'niceness' (you are not indebted to all people you find nice): rather, you would feel indebted in such a case because the reverse psychopath deserves credit for what he did – that is to say: because he was responsible for what he did.

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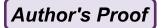
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#### 7.3 **Reasons and the Freedom Conditions for Moral** Responsibility

In the previous section, I have examined what in the epistemic conditions for 330 moral responsibility could make moral ignorance incompatible with moral agency. 331 Nevertheless, considerations about the freedom conditions for moral responsibility 332 could give support to the thesis that moral agency requires the capacity to form 333 moral judgment.

There are many incompatible ways of framing the freedom conditions for moral 335 responsibility – I will focus here on its definition as 'reason-responsiveness'. 336 Fischer and Ravizza (1998) have given 'reason-responsiveness' as a criterion for 337 freedom: basically, the idea is that we can identify whether a given action is free 338 by considering whether the agent would have acted differently had his reasons been 339 different. If I would have had a good reason not to get out of bed this morning, for 340 instance, I would not have got out of bed. Thus we can say that my getting out of bed 341 this morning is something I did freely. To be free is to act on the basis of reasons.

The question is now what it means to act on the basis of reasons. In a strong 343 reading, acting on the basis of reason R amounts to act because we consider R to 344 be a good reason. But assessing whether a reason is a good reason or not seems to 345 immediately drive us in the realm of practical reason and of morality, and thus to 346 make moral evaluation of reasons a requirement for acting for reasons and moral 347 responsibility. Such a strong reading can be found in Korsgaard's conception of 348 morality:

Our purposes may be suggested to us by our desires and emotions, but they are not determined for us by our affective states, for if we had judged it wrong to pursue them, we could have laid them aside. Since we choose not only the means to our ends but also the ends themselves, this is intentionality at a deeper level. For we exert a deeper level of control over own movements when we choose our ends as well as the means to them than that exhibited by an animal that pursues ends that are given to it by its affective states, even if it pursues them consciously and intelligently. Another way to put the point is to say that we do not merely have intentions, good or bad. We assess and adopt them. We have the capacity for normative self-government, or, as Kant called it, 'autonomy'. It is at this level that morality emerges. The morality of your action is not a function of the content of your intentions. It is a function of the exercise of normative self-government. (De Waal 1997, p. 112)

According to Korsgaard, being moral implies to be reason-responsive in a particular 362 way, i.e. to act according to our reasons and the judgments we make about them. 363 Under such a strong reading of reason-responsiveness, the ability to form moral 364 evaluations is a key component of moral agency.

However, I would like that a weaker account of reason-responsiveness is 366 sufficient to capture our intuitions about moral agency. Let's first return to the 367 problem mentioned in the second section: why do we praise the man who saves 368 the child 'because the child would have died' but not the man who saves the child 369 'to become famous or get a reward'? The Reflectivist answer was that the man 370 who saves the child for a reward does not act on the basis of a moral judgment. 371 Nevertheless, we rejected this condition as too high: the man who impulsively dives 372

7 Two Kinds of Moral Competence; Moral Agent, Moral Judge

to save the child does not act upon the basis of a moral judgment either – still, he 373 deserves praise for his actions. 374

Reflectivism might be on the right track when it says that a moral agent deserves 375 praise when he acts for good reasons. But a good reason doesn't need to be the 376 judgment that an action is morally good. The man who dives 'because the child 377 would have died' acts precisely for a good reason, though 'the child would have 378 died' is not a moral judgment.

So, what makes a reason a morally good reason? I think that what makes our man 380 praiseworthy is that he's motivated by the fact he somehow cares about the child: 381 he dives because he wants to prevent the child to be harmed. Thus, one acts for the 382 good reasons when one actually cares about the person one is trying to help. In the 383 same way, Huckleberry Finn deserves praise for helping Jim, since he helps Jim 384 because he *cares* about him, whatever he might think of the moral appropriateness 385 of such an attitude. Similarly, our 'reversed psychopath' also deserves praise for 386 helping people because, though he doesn't realize that what he's doing is right, he 387 cares about people.

The question is now: what does it take to be able to *care* about someone? One 389 condition is to be able to understand that this person has *interests* – that some things 390 have (positive or negative) values for this person. For example, if you understand 391 that a person can suffer and doesn't want to suffer, then you understand that it is in 392 his interests not to suffer. Nevertheless, understanding that persons have interests is 393 not enough to actually care about them. For example, psychopaths totally understand 394 that people have interests, but do not care about them. To care about someone is to 395 give an intrinsic (i.e. non-instrumental) positive value to the fact that this person's 396 interests are preserved and augmented, and to give an intrinsic negative value to the 397 fact that this person's interests are damaged.

So, to deserve praise for a right action involving a moral patient, one just has 399 to perform this action because one cared about this moral patient's interest. This is 400 why, the case of a man that would help the child because he has been taught it's the 401 right thing to do but not because he cares about the child is so disturbing.

These conditions also allow us to determine when an agent deserves praise for 403 punishing a criminal that harmed a moral patient. One does not immediately deserve 404 praise for 'having done justice'. For example, if I punish a criminal not because I 405 care about what he did to the victim, but because I just like punishing people, I 406 don't deserve praise – here again, I must care about the moral patient, the victim, to 407 deserve praise for what I did.

Going further, it also allows us to understand what it takes to deserve blame for 409 having done something wrong. To deserve blame, I must harm a person and, though 410 I understand this person has interests, not care about them. For example, if I stomp 411 on someone's toes, just because I'm in a hurry and don't care about harming this 412 person, it's enough for me to deserve blame. Otherwise said, I deserve blame when 413 my action is expressive of the fact I don't care about others.

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<sup>&</sup>lt;sup>9</sup>For a development of the psychological theory underlying this account of moral responsibility, see Cova et al. (submitted).

My proposal is then that being a moral agent only requires understanding that 415 others have interests and the capacity to be motivated by this understanding (that is: 416 to act in accordance with how much I care about others). If I don't care about these 417 interests, I have bad motives. If I care about these interests, I have good motives - 418 but the main point is to understand that some entities have *interests*, and that makes 419 them moral patients. All it takes to be a moral agent is thus to be able to act according 420 to what we attach importance to and a bit of theory of mind. 10

With this theory, we can construe a less demanding reason-responsiveness for 422 the freedom condition: to be reason-responsive is to be able to be sensitive to the 423 well-being of others, and thus able to act (or refrain from acting) on the reason that 424 someone's well-being is at stake. 11 But this doesn't mean that agents are required 425 to act because they consider that improving the well-being of others is a good thing. 426 If it did, that would run against our intuitions about the Pond cases presented in 427 Sect. 7.2.

Thus, we think there is a plausible version of the epistemic and freedom 429 conditions for moral responsibility according to which moral responsibility might 430 not require the ability to form moral judgment. In the last section of the paper I 431 return to the implication of such a possibility. 432

#### **Conclusion: Moral Animals and Twice-Moral** 7.4 **Human Beings**

I began this paper by presenting a conflict between the continuists, who think we 435 share with animals the psychological requirements for morality, and discontinuists, 436 who think that we are endowed with unique moral capacities. In this paper, I've 437 argued that both perspectives could be reconciled by distinguishing two components 438 of our moral life: moral agency (we are morally responsible for our actions) and 439 moral judgments (we are able to evaluate our behaviour and that of others).

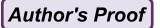
To side with the discontinuist, it is hard to deny that moral life is much richer in 441 human beings than in any other moral animals: we are able to ask tough moral 442 questions and reason about difficult moral situations (such as moral dilemmas). 443 Nevertheless, the continuist can also cite cases in which it is hard to deny that other 444 species can have a real moral life. Let's consider the following story:

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<sup>&</sup>lt;sup>10</sup>Some (e.g. Knobe 2006) have argued that our theory-of-mind is already suffused with moral considerations and evaluations, which goes directly against our argument that presupposes that theory of mind is independent from the faculty of moral judgment. However, there are reasons to doubt this claim. See Cova et al. (2010) for a rebuttal.

<sup>&</sup>lt;sup>11</sup>Does it mean that empathy is necessary to be a moral agent? No, empathy is what makes us care about others' interests and be good moral agents. But, a bad moral agent, one who doesn't care about others, is still a moral agent, so empathy is not necessary to be a moral agent. Note also that empathy might not even be necessary to be a good moral agent: there might be other emotional or cognitive ways to care about others' interests.



#### 7 Two Kinds of Moral Competence; Moral Agent, Moral Judge

The Arnhem chimpanzees spend the winters indoors. Each morning, after cleaning the hall and before releasing the colony, the keeper hoses out all the rubber tires in the enclosure and hangs them one by one on a horizontal log extending from the climbing frame. One day Krom was interested in a tire in which water had been retained. Unfortunately, this particular tire was at the end of the row, with six or more heavy tires hanging in front of it. Krom pulled and pulled at the one she wanted but could not move it off the log. She pushed the tire backward, but there it hit the climbing frame and could not be removed either. Krom worked in vain on this problem for over ten minutes, ignored by everyone except Otto Adang, my successor in Arnhem, and Jakie, a seven-year- old male chimpanzee to whom Krom used to be the 'aunt' (a caretaker other than the mother) when he was younger.

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Immediately after Krom gave up and walked away from the scene, Jakie approached. Without hesitation he pushed the tires off the log one by one, as any sensible chimpanzee would, beginning with the front one, followed by the second in the row, and so on. When he reached the last tire, he carefully removed it so that no water was lost and carried the tire straight to his aunt, where he placed it upright in front of her. Krom accepted his present without any special acknowledgment and was already scooping water with her hand when Jakie left. (De Waal 1997, p. 83)

In this case, it seems that Jakie understood what Krom wanted, and helped her get 463 it, and it is hard not to perceive this story in moral terms. According to the account 464 developed in Sect. 7.3, it is the fact that Jakie understood that Krom had interests 465 that makes him look like a moral agent. 12 466

By stressing that moral agency can exist without moral judgment, I hope to have 467 contributed to diminishing the gap between continuists and discontinuists. Indeed, 468 it is interesting to note that continuists often emphasize action and emotions, while 469 discontinuists stresses the uniqueness of human moral reflexion. These two insights 470 can be reconciled in a more complex and fine-grained view of moral life, a view that 471 opens the interesting possibility that moral agency can have evolved independently 472 from moral judgment.

<sup>12</sup>This claim immediately raises several questions. (i) First, if Jakie is really a moral agent, does that immediately make him a moral patient (i.e. someone it is wrong to harm). I was tempted to say 'yes' until an anonymous reviewer gave me the following argument I found quite convincing: 'Are all moral agents moral patients? Probably, but: one could imagine someone who has racist beliefs and thinks, for example, that black people are inferior to white people, and thus think that they do not bear rights in the same way and to the same extent as white people, yet think that they are equally morally responsible for their actions, and are bound by the same norms. In this case, being a moral agent would not be sufficient for being a moral patient. This option does not seem conceptually incoherent.' (ii) Second, if Jakie can be responsible for his action, does it necessarily entail that he can be punished? I am not sure either, for punishment seems to require something more than moral responsibility. For example, it seems to me that we want the people we punish to understand why they are punished and that it is essential for punishment that the punished one understands it as such. This intuition is supported by experimental studies showing that people consider revenge satisfactory only if the offender understands (and acknowledges) that revenge was taken against him because and in virtue of a prior unfair behaviour (Gollwitzer and Denzler 2009). If it is the case, then one has to be both a moral agent and a moral judge to be an appropriate target of punishment. (Even if you take a consequentialist stance on punishment, then you must admit that an agent that cannot understand why he has been punished and on whom deterrence won't work is not a suitable target of punishment.)

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#### **AUTHOR QUERIES**

- AQ1. Please confirm the author affiliation.
- AQ2. Please provide in-text citation for the references Aristotle (2011), Kant (2011).
- AQ3. Please update the reference Cova et al. (submitted).

