

John Sydney Camp, MA

Do humans have special duties and moral obligations towards, rather than 'rights' over, nonhuman animals? And if such duties exist, what does our collective treatment of nonhumans say about human morality?

Supervised by:

Dr Rebekah Humphreys

and Dr Tristan Nash

Thesis submitted in partial fulfilment for the award
of the degree of Doctor of Philosophy

University of Wales Trinity Saint David

2025

DECLARATION

This work has not previously been accepted in substance for any degree and is not being concurrently submitted in candidature for any degree.

Signed John Sydney Camp..... (candidate)

Date 14 February 2025.....

STATEMENT 1

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Abstract

Do humans have special duties and moral obligations towards, rather than 'rights' over, nonhuman animals? And if such duties exist, what does our collective treatment of nonhumans say about human morality?

This thesis supports the theoretical case against all forms of animal exploitation and associated harms, and challenges speciesist assumptions that prevail in most human societies. In keeping with the title question, it falls broadly into (a) the evidential and philosophical bases for the recognition of the basic interests and moral entitlements (or rights) of nonhumans, and (b) a critical view of anthropocentric beliefs, attitudes, philosophical systems and psychological strategies that not only fail to recognise such interests and entitlements but also rationalise our collective use and misuse of nonhuman beings.

At the outset, it challenges the pretext of utility as a basis for 'rights' to exploit nonhuman beings. Contrary to the belief that it is *necessary* to use animals or animal products to meet vital human needs, such as food, clothing and medical treatment, it is evident that viable non-animal alternatives are readily available to us. And without necessity, claims of rights to exploit animals are invalid. Furthermore, it is not possible legitimately to own or dispose of nonhuman lives in any case. Accordingly, nonhumans have, by default, correlative entitlements to life, liberty and non-interference, which underpin our moral obligations towards them.

There is compelling empirical evidence that nonhuman animals can experience pain and suffering, which suggests that the pain response is an essential evolutionary mechanism common to many, or most animal species. It is thus consistent to argue that, as sentience provides sufficient grounds for the moral requirement of non-harm, causing avoidable harm to nonhuman beings is a *prima facie* wrong. This directly contradicts Neo-Cartesian 'pain sceptical' notions that nonhumans are not phenomenally conscious and therefore cannot be wronged by our actions.

Likewise, there is strong scientific evidence that species across the evolutionary spectrum share important physiological, neurological and cerebral similarities with humans, which challenges sceptical/behaviourist views of animal mentation and consciousness. Other species demonstrate 'higher' cognitive capacities and abilities, including self-recognition, theory of mind, proto-moral behaviour and use of language. While humans' special cognitive powers (including 're-reflexivity') are acknowledged, the capabilities observed in other species weigh against a categorical distinction between ourselves and all other beings.

From this position it is possible to argue for the moral duties of powerholders towards the vulnerable under the aegis of mercy. The baseline moral principle of nonmaleficence applies to all sentient beings, which we contravene if we harm

nonhumans without just cause. This entails a moral obligation not to abuse our power over others, but also to exercise due restraint – and to protect those weaker than ourselves. The virtue of mercy is considered in contrast to the vice of cruelty, with particular reference to Seneca’s noted exposition of these ideas in *De Clementia (On Mercy)*.

The thesis considers the implications of the view that nonhumans’ moral considerability can be assessed on the basis of their interests, cognitive capacity and *telos*. It also reviews arguments that they can be recipients of justice and argues against versions of contractualism that make this dependent upon their ability to claim rights or to fulfil obligations. Similarly, it challenges the hierarchical fact-value criterion (linking moral standing to differential cognitive abilities), which is implicit both in the ‘capabilities’ approach and some versions of utilitarianism and is logically inconsistent with justice entitlements for children or vulnerable adults.

From a broader perspective, the thesis outlines the contention that humans collectively depend on a synthetic normative-ethical framework which continually adapts to changing societal pressures. This self-imposed system contrasts with the apparent proto-moral homeostasis (or ‘respectivity’) that seems to govern interactions between nonhuman beings. On this basis it is arguable (broadly from Hume, and against the Kantian view) that moral sensibility is not derived from reason but is a common cognitive capacity shaped by evolution. Humans’ rationalistic morality may be (as Darwin believed) an elaboration of intuitive capacities common to many other social animals.

It can be further argued that these apparent differences are symptoms of humans’ progressive estrangement from nature and our accumulation of an artificial cultural-technological ‘shell’, which insulates us from nature and causes us to see the world in a distorted way. This is related to concepts of ideology and concerns ways in which various social-psychological misconstructions and speciesist beliefs facilitate the objectification and violent exploitation of nonhuman beings, as well as more deliberate misinformation strategies which defend and rationalise those harmful beliefs and practices.

The discussion then moves to the problematic role of the human egoic self. This concerns the ‘I’ as a discrete, conceptualised (and ultimately illusory) entity, rather than the indexical self-locus, which is, logically, integral to consciousness itself in all (conscious) beings. The objectified ‘I’-concept is central to our ideological misperception of the phenomenal world and of the Other (human or nonhuman) as an adversary to be overcome. This is discussed in relation to the ‘fascism hypothesis’, wherein the fetishised ego manifests collectively in a form that inverts the intrinsic primal relational dynamic of nature, referred to earlier as ‘respectivity’.

Various thinkers suggest that humans’ patently dysfunctional behaviour indicates some fundamental break with the nature. Without necessarily contradicting modern concepts of alienation, the thesis argues that ancient, pre-scientific

narratives such as ‘the Fall’ can be interpreted as valid mythopoeic attempts to explain this estrangement – i.e., as a consequence of humans’ acquisition of abstract-conceptual reasoning. This is then linked to the idea (in the light of thinkers such as Schopenhauer, care ethicists and some Frankfurt scholars) that a form of moral intuition (rather than reason alone) is needed to enable humans properly to understand and reconnect with the wider, nonhuman world.

Finally, some of these themes are linked to classical-medieval natural law theory (NLT), which is commonly attributed to Thomas Aquinas. NLT posits moral truth as integral to the rational plan (*ratio*) which orders the universe itself and governs all living things – but which can be grasped only by the human faculty of reason. Against Aquinas’ anthropocentric interpretation, it is arguable that only nonhumans (who did not ‘fall’) can truly abide by the principles of natural law. Moreover, without Aquinas’ anthropocentrism, natural law theory could offer an elegant and comprehensive framework for modern animal ethics, including the key ideas and theories outlined in this thesis.

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General introduction

In relation to our collective attitude to, and treatment of nonhuman animals, notions of ‘common sense’ and ‘received wisdom’ are little more than euphemisms for unexamined habits: we are commonly complicit in practices that use and abuse animals, often without giving the matter any thought at all. As Peter Singer bluntly observes, most humans are speciesists: ‘The overwhelming majority take an active part in, acquiesce in, and allow their taxes to pay for practices that require the sacrifice of the most important interests of members of other species in order to promote the most trivial interests of our own species’.¹

This attitude is deeply entrenched in most societies. Indeed, Singer describes the underlying and ‘unchallenged assumptions’ that humans may breed, use and kill other animals to suit their own purposes and preferences² as ‘the ideology of our species’.³ And those who would challenge this view find themselves working against a kind of naturalised orthodoxy, where ‘what every sensible person believes’ has been accepted as incontrovertible fact. To question this orthodoxy is, for many, to question certain immutable givens intrinsic to nature itself: to challenge what is commonly perceived as the natural order of things. And, indeed, this commonsense view has also long been accepted and even promoted within traditional religious and philosophical systems, at least in the West.

Moreover, even today, there are those who continue to promote the kind of anthropocentric extremism associated with Descartes and Aquinas, and to insist upon humans’ putative rights to treat nonhuman animals in any way that we see fit. In biblical terms, we are entitled to ‘subdue the earth’⁴ (although one must also acknowledge the teachings concerning responsible stewardship and the humane treatment of animals within the Judaeo-Christian and Islamic traditions);⁵ in Marxian terms, we are uniquely equipped to transform ourselves and nature as we will.⁶ But this implies that the multifarious harms that we do in that pursuit are justified and thus need not concern us at all. And in the process, we have radically reconfigured the natural world to accommodate our own pseudo-needs, which impacts on other

¹ Peter Singer, *Animal Liberation* (London: The Bodley Head, 2015), p.9. [Note: this refers to the latest version of *Animal Liberation* available at the time of writing this thesis. Since then, Singer has published an updated version of the book. Peter Singer, *Animal Liberation Now* (London: The Bodley Head, 2023), p.9.]

² Ibid., p.145.

³ Ibid., p.185.

⁴ Genesis 1:28, NEB. *The New English Bible*, with illustrations by Horace Knowles (The Bible Societies in association with Oxford University Press and Cambridge University Press, 1972), p.2. In some biblical texts, ‘subdue’ is followed by ‘and replenish’.

⁵ See also Chapter 2, p.65 and Chapter 9, p.280 (including the text in footnote 59) of this thesis.

⁶ Ted Benton, ‘Humanism = Speciesism: Marx On Humans And Animals’, in *Critical Theory And Animal Liberation*, ed. by John Sanbonmatsu (Lanham; Boulder; New York; Toronto; Plymouth, UK: Rowman & Littlefield Publishers, Inc, 2011), pp.102-04.

living beings to the extent that we nullify their lives *en masse* to serve our own.⁷ We violate them not just as individuals but at root, as living stakeholders in the natural world from which we ourselves have become estranged.

It seems that one effect of many centuries of such presumptive, commonsense anthropocentrism is to allow the sceptical view to act as the default benchmark against which opposing arguments are judged, and to set the terms of academic debate – placing the onus firmly upon proponents of the contrary case to justify their position against this established norm. In effect, presumption is given licence to demand proof.

The current situation, I believe, warrants a significant change in approach to redress the balance. Essentially, I contend that the anthropocentric view is false: not merely in the sense of being mistaken or incorrect, but false in that it involves a fundamentally distorted, ideological perception of the world. While I am not claiming that the evidential base of the animal liberation (or rights) case is incontestable, nor even that all sceptical objections are technically invalid, I consider that the cumulative weight of empirical and philosophical work in recent times is sufficient to shift the onus back to sceptics to prove their case in positive terms,⁸ rather than allowing presumptive doubt to retain the automatic privilege of adjudication and dismissal that it enjoys at present.

It is apparent that unreconstructed historical attitudes towards animals are largely predicated on a radical underestimation of animals' cognitive, emotional and other capabilities, regardless of compelling contrary scientific evidence and information (the most salient aspects of which are outlined in Chapters 2 and 3). Such work clearly affirms that animal species across the evolutionary spectrum share important and morally-relevant physiological, neurological and cerebral similarities with humans, and demonstrate many paradigmatically similar capacities.

Powerful and substantial arguments that reiterate and amplify this fundamental point have already been made many times by various commentators, and one is led to ask what more can reasonably be done to move on the debate – or, indeed, why there is still a debate at all. It remains to be seen whether sound empirical evidence and cogent argument in itself can persuade others that this *matters* or even that it *ought* to matter, when most continue to believe and act on the basis that it does not. As Henry Salt remarked (in words that could provide the superscription for this thesis), 'The human mind is subtle to evade the full significance of its duties, and nowhere is this more conspicuously seen than in our treatment of the lower races'.⁹

⁷ See, Will Tuttle, PhD, *The World Peace Diet: Eating For Spiritual Health And Social Harmony* (New York: Lantern Books, 2005). Chapter 11, 'Profiting From Destruction', is particularly relevant.

⁸ Sapontzis makes a similar observation. See S. F. Sapontzis, *Morals, Reason, And Animals* (Philadelphia: Temple University Press, 1987), p.89.

⁹ Here, Salt is using 'races' in the sense of 'species', which was common practice at the time of writing. Henry S. Salt, *Animals' Rights Considered In Relation To Social Progress* (New York:

Aims and objectives

To paraphrase the main research question for this thesis I ask (a) whether humans have special duties and moral obligations towards nonhuman animals, rather than rights over them; and (b) if we do have such duties, what does our *actual* treatment of nonhumans indicate about human morality?

In keeping with these initial questions, the thesis falls broadly into two main themes: the first concerning the various evidential and philosophical bases for the recognition of the capacities, interests and moral significance of nonhumans, and the second concerning the essential character of prevailing human moral-ethical theories, systems and practices, and particularly their general failure to recognise or accommodate nonhumans' interests in any significant way.

(Here I should stress that, while this thesis may look critically at certain human behaviours, its aim is ultimately diagnostic rather than judgemental, although one cannot diagnose without making judgements of some sort. And where I make generalisations about 'most humans', I mean to indicate demonstrable statistical facts and/or common phenomena – not necessarily to make a blanket statement concerning the moral character of all human beings.)

While the underlying concern of this thesis is to support and advance the theoretical case for the cessation (abolition) of all forms of animal exploitation and associated harms, and to defend it against the sceptical-speciesist assumptions outlined above, I am also seeking to 'get behind' the frontline, head-on debate itself and to arrive at an explanation as to why the current *impasse* exists at all. And this in turn is driven by the intuition that, if we can understand how we got to the position we are in, it is plausible that we can, in theory at least, retrace our steps to find our way back.

I will be offering and considering a range of relatively difficult arguments and ideas across the various chapters of this thesis, but the initial premises behind them are almost bewilderingly simple: our exploitation of nonhuman animals causes manifest harms and suffering; such exploitation is unnecessary and avoidable; therefore we are morally obliged to desist. The complication of this simple matter, which I seek to address in this work, arises with the question of why, as a species which claims for itself the distinguishing faculties of rationality and moral good, we do not do so.

Towards this end, I am recontextualising the animal ethics debate so as to look more critically at human beliefs, attitudes and behaviour; to question in particular

Macmillan & Co, 1894), p.25. *Internet Archive* ebook
<<https://archive.org/details/animalsrightsc00salt/page/n7/mode/2up>> [Accessed 19 May 2024].

the dominant rationale behind the existing presumption in favour of harm. Rather than being confined wholly to demonstrations of the objective ‘qualifications’ of nonhumans to be accorded the most basic moral respect and compassion, I dispute (and seek to *refute*) our putative rights to own, exploit and kill them in the first place. The overriding question should not be, ‘What right do they have to life?’ but ‘*By what right* do we treat them as though they do not have such a right?’.

A note on methodology and sources

I will be taking a multi-disciplinary combination of approaches to the subject - theoretical, empirical, deductive, intuitive and speculative – and while I would agree with the characterisation of the animal liberation/abolitionist position as a form of moral realism, I do not adhere formally to this or any one particular methodological paradigm, which I think would be somewhat artificial and restrictive in this context.

Notwithstanding my comments above (p.2), I will be reviewing and employing a range of ‘established’ or received ideas and forms of argument in a conventional way to contextualise and support the main concerns and themes of this thesis. I will also cite a representative sample of modern and recent scientific research, case histories and other empirical studies that attest to animals’ cognitive capacities – which are an essential counterpart to the full and proper consideration of philosophical questions relating to them.

I integrate these with the various concepts and hypotheses which I am bringing to the debate, linking the various themes and perspectives together in a concerted way as components of a progressive ‘meta-argument’ which promotes a number of sometimes unconventional ideas not typically associated with mainstream animal ethics, but which I believe may – for that reason - contribute to a new kind of approach to the subject.

Overview of chapters

I begin, in Chapter 1, by discussing and enlarging upon various challenges to the anthropocentric pretext of utility, examining evidence for the view that our exploitation of animals for various human needs including food, clothing, research or medicines is not an unavoidable necessity but a matter of personal choice and cultural normalisation.

To help support these claims I bring a range of empirical findings and observations to bear on the debate. In Chapter 2, I marshal a range of physiological and behavioural studies and anecdotal evidence that nonhuman animals generally (even ‘lower’ species) experience pain and suffering, against the contrary claims of animal pain sceptics and deniers. I also consider the moral implications of sentience in nonhumans in relation to moral duties towards them.

The focus on empirical work continues in Chapter 3, which reviews salient examples of the extensive and mounting evidence of animal consciousness and cognitive abilities. I also consider what such capabilities and potential mean for the generally accepted presumption of some kind of absolute and categorical distinction between humans and all other life-forms.

With these observations in mind, I move on, in Chapter 4, to consider in more detail what this means in terms of moral duties towards nonhumans. On the traditional view, the baseline moral principle of non-harm or nonmaleficence (*ahimsa* in Eastern thought) applies to all conscious, sentient beings. Here, I also consider in some detail the virtue of mercy, in contrast with the vice of cruelty, with particular reference to Seneca's noted exposition of these ideas in *De Clementia* (*On Mercy*) – ideas which I consider in relation to our 'imperial' status in relation to nonhumans.¹⁰

I then go on to explore various moral bases for our recognition of moral duties towards nonhuman beings in the context of justice theory in Chapter 5, in parallel with arguments that nonhumans and their entitlements should be assessed on the basis of their individual cognitive capacity and capabilities – and, indeed, that they can be recipients of justice.¹¹ This moves on to criticism of the assumptions behind versions of contractualism that exclude animals from rights on the grounds of their inability to engage in equal agreements and partnerships with humans.

While there are significant differences between humans and other species (which I do not deny, but rather amplify in this thesis), I discuss various arguments that challenge the idea that this justifies misusing animals as we commonly do;¹² I also challenge the validity of the notional hierarchical 'fact-value' criterion itself, which is implicit both in the 'capabilities' approach and in certain versions of utilitarianism.

This opens up into a discussion of the concept of morality itself in Chapter 6, where I adopt the (broadly Humean)¹³ idea of human moral systems as synthetic constructs that reflect changing societal influences – and contrast this with the apparently innate condition of relational homeostasis (which I refer to as 'respectivity') which appears to govern nonhuman creatures. Here I posit the hypothesis that humans inhabit a kind of artificial cultural-technological 'shell' which necessitates equally artificial constraints to preserve the integrity of human

¹⁰ Seneca, *De Clementia* (*On Mercy*), in *Moral Essays*, Vol. I: *De Providentia. De Constantia. De Ira. De Clementia*, tr. by John W. Basore (Cambridge, MA: Harvard University Press, 1928), *Loeb Classical Library* <https://www-loebclassics-com.ezproxy.uwtsd.ac.uk/view/seneca_younger-de_clementia/1928/pb_LCL214.357.xml> [Accessed 20 December 2021].

¹¹ See Martha Nussbaum, 'The Capabilities Approach To Animal Entitlements', in *The Oxford Handbook Of Animal Ethics*, ed. by Tom L. Beauchamp and R. G. Frey (Oxford and New York: Oxford University Press, 2011).

¹² S. F. Sapontzis, *Morals, Reason, And Animals*, xiv, p.111 and p.151.

¹³ See, for instance, David Hume, *A Treatise Of Human Nature* (Wentworth Press, 2016), Book III, Part I, Section 1 ('Moral Distinctions Not Derived From Reason'). Kindle ebook.

social systems. I relate this back to Kant's distinction between 'holiness' (pertaining to the 'naïve' good of animals and God) and true morality (fulfilled through human rationality), but from the opposite standpoint.¹⁴

This then leads into a discussion of (what I see as) humans' progressive alienation from nature itself and from our own moral nature in terms of the concept of ideology (or 'false consciousness'). In Chapter 7, I argue that, as we become increasingly dependent on various forms of technological and systemic artifice, we eventually perceive the world in a detached and distorted way: as a separate entity which exists for us to 'subdue' and exploit.

In this regard I then discuss the various kinds of (largely unconscious) social-psychological misconstructions and beliefs that facilitate the objectification and callous misuse of living, sentient beings, as well as more deliberate misinformation strategies which are deployed to rationalise and normalise those beliefs and behaviours.

Without de-emphasising the importance of the socio-political dimension, which I discuss in Chapters 7 and 8, I consider that the real issue lies deeper still, and in this regard I highlight the problematic role of the human egoic self. This concerns the self as a discrete, illusory entity, as opposed to the ordinary 'situational' self-locus, which is arguably a necessary adjunct to consciousness in nonhuman species.¹⁵ On this basis I go on to argue that egoic self-concern obstructs our deepest compassionate instincts and our primal sense of connectedness with all other living beings, which lies at the heart of our true moral sense – a belief-set which is notably associated with, Schopenhauer, the Frankfurt School, exponents of the care ethic, and others.

While I favour the modern term 'alienation' in this discussion, in Chapter 9 I suggest that our estrangement from the natural-primal world may also have been recognised in ancient religious narratives such as the story of 'the Fall'. Here I consider the view (posited by the psychologist Steve Taylor)¹⁶ that some kind of natural-historical crisis affecting primal human communities led to a fundamental change in human beings, which underlies our collective dysfunctional state as a species.

In the concluding chapter, Chapter 10, I consider the potential value of the neglected classical-medieval concept of natural law, which has some bearing on many of the ideas considered in the thesis. Natural law theory (NLT), devised by

¹⁴ (Ansgar Lyssy cites the *Critique Of Practical Reason* (1788), 5:87, and other sources.) A. Lyssy, 'Beyond Our Given Nature: Kant On The Inviolable Holiness Of Humanity', in *Kant On Morality, Humanity, And Legality*, ed. by A. Lyssy and C. Yeomans (Palgrave Macmillan, 2021), *Springer Link* (31 October 2020), 149-165 <https://doi.org/10.1007/978-3-030-54050-0_8>.

¹⁵ See, David DeGrazia, *Taking Animals Seriously: Mental Life And Moral Status* (Cambridge, New York and Melbourne: Cambridge University Press, 1996), pp.166-67.

¹⁶ Steve Taylor, *The Fall: The Insanity Of The Ego In Human History And The Dawning Of A New Era* (Winchester, UK and Washington, USA: iff Books, 2005).

Aquinas after Aristotle and the Stoics, posits moral truth as an aspect of the rational plan (*ratio*) which orders the universe itself and governs all living things – and which is reflected (uniquely) in the human mind via the capacity of reason.¹⁷

While I consider that the core hypothesis is plausible, I contest Aquinas' anthropocentric interpretation of it, and particularly his insistence on human reason as the basis of morality. I suggest that, stripped of Aquinas' anthropocentric dogma, a modified version of natural law theory could provide an elegant and comprehensive framework for modern animal ethics, including the key ideas outlined in this thesis.

Why is this important?

Animal ethics is a live subject which concerns real events and issues in the world – the life, death and particularly the suffering of astronomical numbers of sentient, flesh and blood beings - rather than the resolution of cold, theoretical problematics. It entails some of the most profound and challenging issues in philosophy and science; it concerns the very basis of our place in nature alongside other living beings; it forces us to examine our deepest instincts and values. Moreover, our conclusions are bound up with precepts for moral action (otherwise, there seems little purpose in this debate); animal ethics, like other justice movements is intrinsically *practical* ethics: merely engaging in (or avoiding) this debate is in itself a morally consequential act: for even to remain agnostic or neutral is to give tacit assent to the *status quo* and all the real-world consequences that that position entails.

¹⁷ Thomas Aquinas, *Summa Theologica*, tr. by Fathers of the English Dominican Province (Coyote Canyon Press, 2010), Part I-II, Q 91, Articles 1 and 2. Kindle ebook. See also Stephen Buckle, 'Natural Law', in *A Companion To Ethics*, ed. by Peter Singer (Malden, MA; Oxford; Victoria: Blackwell Publishing, 1993), p.162. See also Mark Murphy, 'The Natural Law Tradition In Ethics', *Stanford Encyclopedia of Philosophy*, 2019, Section 1:4 <<https://plato.stanford.edu/entries/natural-law-ethics/>> [Accessed 12 October 2023].

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Chapter 1

The false pretext of utility as a basis for 'rights' to exploit nonhuman animals

As I observed in the general introduction, the prevailing and ingrained belief that our collective exploitation of nonhuman animals accords unproblematically with the natural order of things is largely endorsed within Western religious and philosophical traditions. Aristotle, for example, thought of nature as a hierarchy, where the inferior serves the superior, and where some animals (and some humans) are 'slaves by nature'.¹ This hierarchical 'top down' notion was readily adopted and incorporated into Christian orthodoxy by the major medieval theologian, Thomas Aquinas, who insisted that humans have a right to use animals in any way that we see fit, arguing that it is not wrong to use a thing for the purpose for which it exists – thus, plants are there for animals, while animals (and plants) are there for man.² (See also Chapter 10.)

However, Aquinas' ruthlessly anthropocentric worldview made it an article of faith that humans need not respect nonhuman beings in any way. As Singer notes, Aquinas had no concerns over cruelty to animals – indeed, there was no sense in which one could sin against them. Nor did he think that they could deserve charity as animals are not rational creatures; we have no 'fellowship' with them. There is no issue because God has supposedly subjected all things to man.³ And so influential did this view become that even in modern, largely atheistic societies, many people still aver that nonhuman animals were 'put there' for us to use as we please.

Questioning our 'rights' to exploit animals

The foregoing is a very brief indication of the established anthropocentric view (shared by all but the very small minority of human beings on earth who are culturally or individually committed to vegetarianism), which I will be challenging here and in the ensuing chapters. In this chapter, I will be disputing that we have (or can have) rights to exploit nonhuman animals for any purposes whatsoever. Nonhuman animals do not and cannot belong to us; they are not ours to do with as we please. We have a clear and present choice in virtually all cases not to exploit, harm, cause suffering to and kill them in in their trillions in the

¹ Peter Singer, *Animal Liberation* (London: The Bodley Head, 2015), p.188.

² Ibid., pp.188-89.

³ Ibid., p.193.

multifarious ways that we do; and in as far as we continue to choose otherwise, we do not act as moral beings.

In short, as Korsgaard says, the earth is not ours but belongs to all creatures,⁴ and this is a basis for our obligation not to destroy or do harm, if not to do actual good.

This is not to say, contrarily, that animals have rights as such in the commonly accepted sense of the term. One problem with ordinary rights language is that it would suggest that some negotiated advantage is being asked for, or given by party A to party B other than what would exist if party A did not agree to or dispense such rights. And this tends to obfuscate what we really mean when we are talking about 'animal rights'. We are of course not talking about literal parity with what we consider to be *human* rights (a point dealt with extensively by Peter Singer in *Animal Liberation* when he advocates the recognition of equal consideration of their interests)⁵ but are simply saying that humans have no right to harm or kill them.

What I am claiming instead is intended to be read in negative terms – that is, we need not demonstrate that they have positive rights before we must accept that we ourselves are not entitled to impose our rights on them. To put it another way, we have 'non-rights' while nonhumans are entitled to be the beneficiaries of such non-rights on our part in a correlative sense.⁶ This shifts the emphasis from asserting putative entitlements ourselves in favour of recognising the default entitlements of others *not* to be made subject to those presumptive rights on our part. We could describe this as a kind of indemnity against the assertion of false rights.

Another way of expressing this is to say that it pertains to a basic (negative) right to life, liberty and non-interference on the part of nonhumans. And, as I will go on to argue, the onus is on humans to demonstrate on what grounds we elect to violate such basic entitlements, not for nonhumans (or their champions) to demonstrate on what grounds such entitlements need to be recognised. My position, essentially, is that such entitlements exist by default: human beings have no right to grant or withhold them, although of course this does not *actually* prevent us from violating them.

⁴ Christine M. Korsgaard, *Fellow Creatures: Our Obligations To The Other Animals* (Oxford: Oxford University Press, 2018), p.207.

⁵ Singer, *Animal Liberation*, pp.1-3.

⁶ Essentially, the reciprocal 'correlative' relationship between rights and duties/obligations. Tom L. Beauchamp, 'Rights Theory And Animal Rights', in *The Oxford Handbook Of Animal Ethics*, ed. by Tom L. Beauchamp and R. G. Frey (Oxford and New York: Oxford University Press, 2011), p.206.

The outline above is essentially an abolitionist view – which is notably associated with Gary Francione, who argues for negative rights in this sense.⁷ And to honour these rights requires nothing from us; we do not have to *give* nonhumans anything; it requires, merely, non-action, non-harm (an issue which will be discussed in more detail in the next chapter). Thus, we have the negative right – which I would interpret as the *duty* – simply to leave them alone to live their lives in peace.

Vital vs non-vital interests

Here one might object to the idea that we humans can have no rights at all in relation to nonhuman beings. Surely, it seems, there must be times when human interests must come first; that it is justifiable to use animals for some essential purpose or other – for food or clothing for instance – or even, indeed, if these things are beneficial to us in some way.

This idea is often conceded even by some advocates of animal interests or rights. While this welfarist position recognises that our collective ill-treatment and exploitation of nonhuman animals is morally problematic - and should be avoided as much as possible – it still leaves the moral loophole that (a) nonhumans do not matter as much as human beings, and therefore (b) that there are times when human interests automatically override theirs. On this view, they must sometimes be sacrificed for ‘the greater good’ (which just happens to be *our* good). Thus, in a straight choice between preserving the life of a human being and that of a nonhuman, human interests always come first.

This leads into very difficult and substantial questions which I will be looking at separately, and in more detail in this and later chapters, alongside other related and key issues such as value theory and utilitarian calculation (see Chapter 6), which are relevant to (and indeed difficult to separate from) that aspect of the debate. However, for the time being, and to lay the groundwork for the wider discussion, I would like to focus more on the idea of ‘interests’, and particularly how we determine whether nonhumans can be said to have such interests in the first place.

Perhaps the best-known account of nonhuman interests is associated with Tom Regan’s concept of a ‘subject of a life’, to indicate those living beings who possess a sufficient degree of awareness, sentience and capacity to give us grounds for

⁷ Gary L. Francione and Anna Charlton, *Animal Rights: The Abolitionist Approach* (Exempla Press, 2015), Principle 1, Section 8, para. 15. Kindle ebook. (Note: chapters are listed as Principles in the book. Section counts given for this book include the chapter summaries.)

believing that they are not inert, unfeeling or unconscious biological entities or phenomena, but sentient (and possibly sapient) creatures who are aware that they exist, have a sense of their own continuity over time, and possibly can anticipate (and plan for) their existence in the future. The implication of this is that such beings have a stake in remaining alive and therefore lose out by being deprived of their essential needs, or being otherwise harmed or killed. And if we do kill them, we do not merely deactivate or dismantle them like machines but we take something away from them which they can experience (and suffer) as a loss. And it is this which provides them with a moral claim upon us; and, conversely, it is this which makes it incumbent on us to respect them as living beings who have inherent value.⁸

That much-simplified sketch is offered to provide a basic working definition for the purposes of the current chapter. And, with that in mind, we can begin to look at the question of what it is that inclines most people to think that human interests automatically give us the right to override the interests of nonhuman beings. What is it that makes our basic interests (or even our desires) – many, or most of which we have in common with other sentient beings – so special, so *exceptional*, in relation to theirs?⁹ My position, as I have indicated earlier, is that they are not; we merely claim that they are. And this questions the utilitarian notion that some gratifications are more important than others, or that it is possible to justify misusing others on the grounds that one's own satisfaction can outweigh the attendant loss of satisfaction (including that associated with being killed) experienced by the other party or parties.¹⁰

A useful approach to this issue is offered by Mark Rowlands, who distinguishes between what he calls *non-vital* and *vital* interests. Speaking loosely, this is the difference between things we would like and even crave such as great wealth and luxury goods (but which we could manage without) and things that are essential to our survival and wellbeing.¹¹ On this account, the clearest example of a vital interest is the essential interest in staying alive, which includes not having our lives taken from us by force. As Rowlands points out, killing animals attacks the

⁸ Tom Regan, *The Case For Animal Rights* (Berkeley and Los Angeles: University of California Press, 2004), p.243.

⁹ Notions concerning human 'specialness' and exceptionalism will be considered in Chapter 6 (including a discussion of some of the issues addressed in the work of Cora Diamond) in the context of the role of ideology in our common attitudes to nonhumans.

¹⁰ See S. F. Sapontzis, *Morals, Reason, And Animals* (Philadelphia: Temple University Press, 1987), pp.97-99.

¹¹ Mark Rowlands, *Animal Rights: All That Matters* (Hodder & Stoughton, 2013), Chapter 1, Section 3, para. 1. Kindle ebook.

most fundamental of all interests – that of remaining alive. And as he adds, rather drily, ‘Not being killed is among the most vital interests anyone can ever have.’¹²

This distinction is crucially important and gives us a baseline or moral benchmark to work from. If nonhumans are morally considerable on the basis of having interests, then it is, as Rowlands argues, morally wrong to sacrifice their *vital* interests to promote our *non-vital* interests.¹³ Sapontzis, I think, indicates something similar when he suggests (in relation to competing gratifications) that the burden of proof should be on those who would justify animal exploitation.¹⁴

Needs vs wants

The difference between these two ideas, however, may not always be easy to determine in practice; we may consider, perhaps, that our human needs are very specialised and go beyond the mere biological subsistence which we tend to consider to be the appropriate lot of nonhumans. For humans at least, there seems to be a complex relationship between wants and needs,¹⁵ which have tended to become conflated in modern consumer societies. What, in the final analysis, do we actually *need* to live well in the world? The relevant question, then, is how we can make a true distinction between basic or universal needs to sustain life (such as food, water, shelter, personal protection and bodily maintenance) and manufactured or conditional needs, such as vehicular transport, labour- or time-saving domestic machines, remote communication and IT devices and indeed any form of augmentation or extension of the physical person through technology or social infrastructure (including wealth-creation and property) – which we could potentially live without, but which (in view of the ‘givens’ of modern social systems) may not necessarily be easy to relegate to the category of ‘wants’.

This is important, for we need to be able to demonstrate what amounts to an actual need (i.e., vital interest) if we are to establish whether we can claim a right to have or use that particular thing. For example, a heroin addict makes a conscious choice to use the drug in the first instance (perhaps under pressure from peers). But eventually this initial want becomes a kind of need, in the form of psychological and physical addiction, such that the addict is prepared to forsake all other needful things and do virtually anything to obtain it. Thus, an addict could be correct in saying, ‘I *need* my heroin hit’ (in the sense that they will actually *suffer* and become ill if they do not); but we can still question how such a

¹² Rowlands, *Animal Rights*, Chapter 4, Section 1, para. 16.

¹³ Ibid., Chapter 1, Section 3, paras 13 and 14.

¹⁴ Sapontzis, *Morals, Reason, And Animals*, pp.99-100.

¹⁵ See G. E. M. Anscombe, ‘Modern Moral Philosophy’, *Philosophy*, 33:124 (1958), 1-19 (p.7) <<https://www.jstor.org/stable/3749051>> [Accessed 4 March 2021].

need relates to rights to fulfil that particular need. It is generally accepted, for instance, that the addict is entitled to medical treatment for the addiction, but few, I think, would agree that they had a right to steal from others in order to fund their habit.

And it is this potential for ambiguity around needs that seems to fuel the conflict between the rights of humans and those of nonhumans; for, while the needs of nonhumans are relatively stable over time, those of human beings seem to be both relativistic and in a constant state of flux. It is often remarked, for example, how countless generations before us managed to live reasonably well with only a fraction of the things that we now think of as essentials.¹⁶

What this suggests is that the relationship between nonhumans, their needs, and their environment is not the same as the relationship between humans, their needs and their environment. One could say that nonhumans exist in a 'right relationship with nature', which arises from a kind of natural symbiosis, an uncontrived interdependency in which the animals depend on what their natural environment provides, while their environment depends on their activities as consumers (such as fertilising the ground, recycling seeds, etc). Thus, in the case of nonhumans, it is not difficult to determine what they truly need in order to survive and fulfil their vital interests; in the case of human beings, it is far more difficult to determine; indeed, what we perceive to be our needs are often the very things that threaten our own vital interests, and – in pursuing such apparent needs – those of other beings with whom we share the biosphere.

When we talk critically about vital human needs as opposed to ingrained wants, it becomes apparent that a good many of our desires fall into the latter category. And once we recognise this, we can begin to question the exploitative violation of most of the animal kingdom on the basis of what we *think* we need and are therefore entitled to take from them. And what I want to get at now is – in the light of what has been said above – are there truly any *essential* forms of animal exploitation that might provide unequivocal moral justification for us to harm and kill nonhuman beings? Are there really some forms of animal exploitation that we could not possibly do without?

To begin with – on the basis of the 'vital interests' test – we could discount all forms of use or products which are patently unnecessary for humans and harmful

¹⁶ Robert Goodwin considers the idea of welfare utilitarianism, which relates to the priority of the satisfaction of common, long-term *interests* (what people actually need) over the satisfaction of individual, short-term *preferences*. This is relevant to the notion of basic goods common to all, which I will be discussing in Chapter 10 in relation to natural law theory. See Robert E. Goodwin, 'Utility And The Good', in *A Companion To Ethics*, ed. by Peter Singer (Malden, MA; Oxford; Victoria: Blackwell Publishing, 1993), p.244.

to nonhumans. This would include such things as leather goods (now that synthetic alternatives are widely available), fashion items and furs, perfumes, cosmetics, ornaments, furniture and furnishings and demonstrably useless ingredients in exotic medicines and potions. We could also reject any form of recreational ('sport' or 'trophy') hunting and fishing (subsistence hunting will be discussed later in this chapter), cockfighting, dogfighting, weapons testing, animals in circuses, rodeos, horse racing and water parks, and all but the most conscientious of zoos and other enclosures. While this would not rule out keeping ordinary companion animals that enjoy and benefit from human company, it would rule out breeding operations such as puppy mills and the pet trade generally. (Strictly speaking, it would also rule out keeping carnivores as pets because this supports the meat industry.) This, of course, is not an exhaustive list. However, it seems to leave very few candidates for the 'essential' exploitation of animals. Indeed, I would suggest that only two things merit further discussion here, namely food and medical research. While these two issues have been extensively discussed by other commentators, it will be helpful to revisit them briefly in the sections below before picking up some of the wider philosophical questions associated with them.

Why we do not need to eat animals

Most people would, I think, consider that raising animals for food is the most obvious case of the essential use of animals. (If they did not, it would be fair to ask why a huge majority of humans still insist on eating them.) And this is also most significant for our discussion in that it is responsible for the lion's share of the immense nonhuman death toll and the attendant level of suffering in the world. On the face of it, this seems like a reasonable proposition; however, my contention is that, when held up to scrutiny, it is not a requirement at all but merely a cultivated dependency and a preference which humans have developed over time. It is a want, not a need.

The most obvious point to make here is that millions of human beings worldwide do not eat animals or animal products and they do not die or suffer ill health as a result, so evidently it is not true that humans *must* eat animal flesh (including the bodies of fish and other marine creatures) to live and remain healthy.¹⁷ This has long been understood in the East, but it is not 'new news' even in the West. As Singer reminds us, 'Nutritional experts no longer disagree whether animal flesh is essential; they now agree that it is not. If ordinary people have misgivings about

¹⁷ Rowlands, *Animal Rights*, Chapter 4, Section 2, paras 3 and 4.

doing without it, these misgivings are based on ignorance'.¹⁸ Singer also specifically points out that it is perfectly possible to live healthily on a vegan diet – and makes the point that vegans (who eat no animal products at all) are 'live demonstrations' of this fact.¹⁹

The moral implication of this is abundantly clear. As Bernard Rollin argues, the fact that we can live perfectly well without eating meat means we have no justification for violating the animals' basic right to life; we cannot claim the 'strong morally relevant grounds that outweigh the presumptive right' [to life].²⁰ This echoes Rowlands' proviso that we cannot legitimately sacrifice nonhumans' vital interests in order to satisfy our non-vital interests, which means, as he puts it, 'that the case against eating animals is open and shut'.²¹ (For a parallel account, see also Attfield's and Humphreys' two papers on nonhumans and justice.)²² This is also the position which I will maintain throughout this part of the discussion.

A common objection to this, nevertheless, is that if we kill and eat other animals, we are merely doing what other lifeforms on earth have always done. Other animals do it – so why shouldn't we?

The simple and obvious response is that carnivorous animals must kill and eat flesh to survive; humans need not.²³ We do so out of choice when it would (under normal conditions) be easy for us to do otherwise.²⁴ As Humphrey Primatt avers, 'Natural carnivorism is an "accidental evil" – a natural evil rather than a moral one, but the cruelty of nature does not give us licence to act likewise'.²⁵ And as Singer remarks, 'We rarely stop to consider that the animal who kills with the least

¹⁸ Singer, *Animal Liberation*, p.180.

¹⁹ Ibid., pp.175-76.

²⁰ Bernard E. Rollin, *Animal Rights & Human Morality*, 3rd edn. (New York: Prometheus Books, 2006), Chapter 1, Section 33, para. 3. Kindle ebook. (Note: sections refer to those listed in the contents page of the book.)

²¹ Rowlands, *Animal Rights*, Chapter 4, para. 1.

²² Robin Attfield and Rebekah Humphreys, 'Justice & Nonhuman Beings, Part I', in *Bangladesh Journal Of Bioethics* (7:3), 2016, 1-11.

Robin Attfield and Rebekah Humphreys, 'Justice & Nonhuman Beings, Part II', in *Bangladesh Journal Of Bioethics* (8:1), 2017, 44-57.

²³ Singer, *Animal Liberation*, p.222.

²⁴ It is acknowledged here that some humans such as the Inuit or Masai peoples live in remote or extreme locations where crops cannot be grown and where subsistence hunting is the main or only source of food and other essentials. However, this does not support the argument that human beings in general *must* eat meat in order to survive and maintain good health. The separate and very complex social-anthropological question of why certain peoples remain in parts of the world where food sources are so restricted and scarce (when most nonhumans tend to move to where food is plentiful) is beyond the scope of the present work.

²⁵ Humphrey Primatt, *The Duty Of Humanity To Inferior Creatures*, abridged by the Rev. A. Broome, Founder of the SPCA (London: Nisbet 1831), p.35. Google Play ebook
<https://play.google.com/books/reader?id=XLxYAAAAcAAJ&pg=GBS.PA128&hl=en_GB> [Accessed 5 March 2021].

reason to do so is the human animal. Animals such as lions or tigers are forced to kill or starve'.²⁶ Humans do it out of choice, for sport or taste. And if we humans believe that we are indeed superior to, and indeed other than, mere unthinking 'beasts' or 'brutes', which is explicit in Aquinas' hierarchical account of nature, it seems wholly contradictory then (when it suits us) to try to emulate them in what we see as their bestiality and brutality. We cannot - with no pun intended - have our cake and eat it.²⁷

At this point it should be stressed that, physiologically speaking, *homo sapiens* is demonstrably not an obligate carnivore like a lion or a shark. Plutarch (c. 46-120 CE) famously illustrated this with the challenge that if we really believe we are natural carnivores, then we should catch kill and kill our prey ourselves, using only our bare hands, and eat it raw and whole using just our teeth and fingers.²⁸ While Plutarch was making a point about our natural disgust at raw flesh, it also highlights how ill-equipped we are to do this (although it might be rash to say that it is *impossible*). We are not naturally fast and agile enough to chase down and catch most prey animals; we lack the long, raked teeth, powerful jaws and claws needed to make a quick and efficient kill, and to eviscerate a downed animal, rip through sinews and hide and tear off chunks of flesh to gobble down whole, and we therefore rely on artificial means and implements to compensate for these natural inabilities.²⁹

Internally, we do not have the truncated and highly acidic digestive systems needed to process flesh quickly and eliminate potentially dangerous toxins from our bodies. Like most other species of primate, including the great apes, we have long, complex digestive systems and 'chop and grind' dentition which are different altogether from those of carnivores and more characteristic of frugivores – and thus best suited to the consumption of fruits, nuts, roots and herbs.³⁰ Thus, comparative anatomy seems (as Henry Salt observed) to confirm what is known

²⁶ Singer, *Animal Liberation*, p.222.

²⁷ As Singer notes, Aquinas would have known that it was perfectly possible for people to live without eating animals. However, Aquinas thought it was unjust for wild animals to eat humans because they were not entitled to do so, being devoid of reason. See Singer, *Animal Liberation*, p.194 and p.224.

²⁸ Plutarch, *Moralia*, quoted in *The Extended Circle: An Anthology Of Humane Thought*, ed. by Jon Wynne-Tyson (London: Sphere Books, 1990), p.368.

²⁹ The issue of humans' compensation for such physiological restrictions or deficiencies in the form of tool-use (from basic trapping, killing and cutting implements to modern factory farming and industrialised slaughter) is a complex and difficult one, which I think relates to humans' technological insulation from the wider environment in general.

³⁰ There are numerous resources available online and elsewhere if one wishes to pursue this in more detail. See, for example, Dr Milton Mills, 'The Comparative Anatomy Of Eating', *Plant Based Nation* (15 November 2019) <<https://drmiltonmillsplantbasednation.com/the-comparative-anatomy-of-eating/>> [Accessed 4 March 2021].

from those who follow a plant-based diet – that flesh food is far from essential to human health and wellbeing.³¹ Indeed, as Singer puts it, ‘When we eat plants we take from the earth food that is ready for us and does not fight against us as we take it’.³²

In other words, it not right merely to say that humans can ‘do without’ eating flesh but rather that flesh is not something that we have any biological need to consume in the first place.³³ Thus, while it is possible for humans to live on a mixed diet including meat and fish, they are more likely to suffer various kinds of illnesses or have a shorter life span if they have a diet predominantly or wholly consisting of flesh foods. A number of modern scientific studies (for example the China Study)³⁴ suggest that a Western diet high in meat and other animal products is associated with an increased risk of human health issues such as high cholesterol, hypertension, diabetes, digestive disorders as well as heart disease and certain types of cancer – the latter two things being the primary cause of premature death in humans.³⁵

As Mark Rowlands summarises the issue: ‘Eating animals does not promote vital human interests. In fact, it does quite the opposite’. Indeed, it is so bad for us that (on the evidence) ‘the practice of eating meat is actually incompatible with many vital human interests’.³⁶

There are, nevertheless, those who maintain that we do need to eat flesh (for example, advocates of the Paleo diet, which includes raw meat), despite the fact that vegans and vegetarians manifestly *do not* need to do so. They are taking the fact that humans *can* consume flesh or meat as evidence that we *should* do it. But by the same token one could argue that because humans *can* smoke and chew tobacco, drink alcohol, snort cocaine or inject heroin – and crave those things as though our lives depended on them - then it is also good, desirable and even *natural* for us to do so. The implication seems to be that such things are part and parcel of the perks of being a human being: we do not have to conform to nature;

³¹ Henry S. Salt, *Animals' Rights Considered In Relation To Social Progress* (New York: Macmillan & Co., 1894), Chapter 4, p.47. *Internet Archive* ebook <<https://archive.org/details/animalsrightsc00salt/page/n7/mode/2up>> [Accessed 20 March 2021].

³² Singer, *Animal Liberation*, p.178.

³³ This overlaps with the previous point (footnotes 28 and 29). See ‘Science Verifies That Humans Are Frugivores’, *IDOC PUB* website <<https://idoc.pub/documents/17111888-science-verifies-that-humans-are-frugivores-6klzdw896eng>> [Accessed 5 March 2021].

³⁴ A summary of the findings of the China Study can be seen at: *T. Colin Campbell Center for Nutrition Studies* <<https://nutritionstudies.org/the-china-study/>> [Accessed 23 March 2021].

³⁵ Rowlands, *Animal Rights*, Chapter 4, Section 2, para. 6.

³⁶ *Ibid.*, Chapter 4, Section 2, para. 1.

unlike all other animals, we can make nature conform to *us*; nothing, not even our own inherent biological limitations, can stop us.

From this viewpoint, one can begin to see the wider case against humans' consumption of meat not as an argument about mere personal or dietary preferences but about the essentially dysfunctional nature of the human species, which I will go on to discuss later in this work. For us it is 'normal' to take what we do not need, take what causes us and others harm, take far more of what we do not need than we can readily consume, or indeed more than the environment can sustain, and lay waste to what we do not use in a way, and on a scale which does not occur in any other department of nature. It is, ultimately, an argument as to why it is unjustifiable, both prudentially and morally wrong, and abhorrent to do so, and why it is imperative that, as a fundamental, 'baseline moral obligation',³⁷ we stop doing it altogether.

Self-preservation and the 'special problem' of vivisection

The use of animals in medical research is the second of the two themes that I introduced near the beginning of this chapter. Vivisection – a blanket term for experimenting on animals – is seen by many, even among animal welfarists, as *the* moral and prudential sticking point: the one cruel and violent practice that we cannot possibly do without. It may be the case that we can – or indeed *should* – do without eating, wearing, chasing, racing, shooting and otherwise exploiting, abusing and killing nonhumans, but in order to develop medicines and procedures to promote human health and wellbeing, it is thought by many to be absolutely essential that we retain the freedom to carry out harmful and fatal experiments on animals in laboratories.

While the estimated number of animals used in experimentation and research (about 190 million per year)³⁸ is a small fraction of the immense death toll driven by the global meat industry, the raw statistics do not detract from the fact that vivisection involves egregious suffering for the numerous individual creatures processed and 'sacrificed' in laboratories around the world. There is, no less than in the previous discussion of animal exploitation for food, a clear moral case to answer. In the words of the vegetarian pioneer, Henry Salt, the true horror of the 'revolting and unscientific' practice of vivisection is that it is, 'a deliberate,

³⁷ Francione and Charlton, *Animal Rights*, Principle 3, Section 1 (Summary), para. 1 and Section 2, para. 1.

³⁸ According to Cruelty Free International. See 'Facts And Figures On Animal Testing', *Cruelty Free International* <<https://www.crueltyfreeinternational.org/why-we-do-it/facts-and-figures-animal-testing>> [Accessed 27 February 2021].

avowed, conscientious invasion of the very principle of the animal's rights' and 'the consummation of barbarity and injustice'.³⁹

While there are, I believe, good empirical grounds to dismiss the scientific and ethical validity of vivisection, animal research still seems to engender equivocation among philosophers. Even some of those who argue on behalf of the animals seem to concede a degree of value in animal research or are sceptical as to whether outright abolition is a realistic goal.⁴⁰ Rowlands, who has argued powerfully against vivisection for patently inessential (*non-vital*) purposes, considers that the kinds of arguments we have seen against meat-eating do not seem to work (on the face of it) with animal experimentation in as far as such research may conceivably serve *vital* human interests.⁴¹ Thus, he says, 'While the case against eating animals is a strong one, the case against animal research seems far less so.'⁴²

Granted, it is wise to be cautious about what we can really know about the efficacy of animal experimentation, past, present and future: we cannot say categorically that there will *never* be an animal experiment that will significantly contribute to human health and wellbeing. But I would nevertheless contend that the positive view of vivisection is mistaken and fails both prudentially and morally. While I disagree that it can be vindicated morally if it can be shown to benefit humans, it is still worth briefly reminding ourselves how scanty is the evidence for its efficacy in any case and how telling (and well documented) is the evidence against it – as I will go on to discuss below.

Animals are not good models for human medical research

Perhaps the most obvious question with which to begin is, 'does it actually work?'. And while (from an abolitionist perspective) I do not consider that prudential considerations can provide the moral justification for animal experimentation,⁴³ they can, contrarily, undermine the moral justification for animal experimentation. To put it simply, even if it works this does not mean that it is morally justified; but if it does not work, then it is not morally justified. This issue is, I believe, the true Achilles' heel of the case for vivisection, for there seems to be little empirical evidence that such research delivers the clinically useful results to which its proponents lay claim.

³⁹ Salt, *Animals' Rights*, Chapter 7, p.81.

⁴⁰ For example, Singer, *Animal Liberation*, p.91; and Rollin, *Animal Rights*, Chapter 3, Section 3, paras 2 and 3.

⁴¹ Rowlands, *Animal Rights*, Chapter 5, para.1.

⁴² Ibid., Chapter 5, para. 2.

⁴³ Singer, *Animal Liberation*, p.92.

While the vivisection of animals has been practised for many centuries, its modern application is often credited (if that is the right term) to Claude Bernard, who believed that poisons would have the same effects on humans and animals⁴⁴ – a belief which has been decisively falsified through many years of doing the experiments themselves. There are important biological/evolutionary differences between species that make so-called modelling unworkable: sharing some relevant properties does not always mean sharing all properties.⁴⁵

And here even some medical researchers concede that animals are not ‘like us’ in ways that make them good models for human disease. For instance, scientists had to admit that chimps were not good models in AIDS research and that more work with humans was needed,⁴⁶ while others in the industry have admitted that mice are very poor models for dealing with cancer in humans.⁴⁷ Similarly, years of cruel ‘learned helplessness’ experiments on dogs concluded that dogs are not good models for depression – effectively admitting that decades of animal experiments had been pointless.⁴⁸ Similarly, too, thousands of animals were forced to smoke cigarettes over many years (when scientists had already known of the link between smoking and lung cancer on the basis of human studies for a long time)⁴⁹ but could not reproduce the disease in animal experiments.⁵⁰

The fundamental variations between different organisms mean that animals do not get the same diseases as humans (in fact, just over one per cent of human illnesses are ever seen in animals)⁵¹ and we cannot necessarily apply results of experiments to humans: various animals react in very different ways to substances and/or disease. This in turn means that the experiments cannot provide confidence as to how humans will react, which defeats the object of the experiments.⁵² Humans are always ‘guinea pigs’ at some stage anyway.⁵³ In fact, more than 90 per cent of drugs fail in clinical trials after animal testing⁵⁴ – that is, a lower predictive rate than the 50-50 offered by flipping a coin.

⁴⁴ Hugh LaFollette, ‘Animal Experimentation In Biomedical Research’, in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.805.

⁴⁵ LaFollette, ‘Animal Experimentation’, p.809.

⁴⁶ Rowlands, *Animal Rights*, Chapter 5, Section 2, para. 12.

⁴⁷ Ibid., Chapter 5, Section 2, para. 7.

⁴⁸ Singer, *Animal Liberation*, p.47.

⁴⁹ Ibid., p.88

⁵⁰ Rowlands, *Animal Rights*, Chapter 5, Section 2, paras 7-8.

⁵¹ For references see, ‘Animal Testing And Science – The Facts’, *Vivisection Information Network* <http://vivisectioninformation.com/indexe824.html?p=1_8> [Accessed 5 March 2021].

⁵² LaFollette, ‘Animal Experimentation’, in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.807.

⁵³ Ibid., p.807.

⁵⁴ Rowlands, *Animal Rights*, Chapter 5, Section 2, para. 2.

Evidence of the unreliability of animal experiments is a matter of public record. Thousands of drugs deemed safe after animal experiments have had to be withdrawn from the market because of their effect on humans. High profile failures – drugs that ‘passed’ animal tests but went on to cause serious harm to human patients include (as Singer notes) Thalidomide (morning sickness); Opren (arthritis); Practolol (heart drug) and Zipeprol (cough treatment).⁵⁵ [*****

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There is also ample evidence that, as well as exposing people to harm, testing on other animals can make us miss out on products that would actually benefit humans but are dismissed because they harmed animals.⁵⁷ Examples include the development of insulin, morphine and penicillin⁵⁸ and the polio vaccine.⁵⁹ It has also hindered development of other important (to humans) medicines and procedures, such as surgery to replace clogged arteries and kidney transplants, because they failed in experiments on dogs.⁶⁰ Reliance on the results of animals experiments would, likewise, have hindered the development of anaesthesia; and even commonly used medicines such as aspirin and digitalis (for heart disease) would be unavailable to us had the reactions of animals to these substances been allowed to determine their safety in human beings.⁶¹

Among other things, the sheer unreliability of animal research helps to highlight how the generic hypothetical assertion that if one experiment on a rat saves thousands of lives then it would be morally wrong not to do it, is based on a wrong understanding of how the process works. As Singer says, ‘There has never been and never could be a single experiment that saved thousands of lives’.⁶²

⁵⁵ Singer, *Animal Liberation*, p.57.

⁵⁶ ‘Animal Testing – The Facts’, *Vivisection Information Network*
 <http://vivisectioninformation.com/indexe824.html?p=1_8> [Accessed 5 March 2021].

⁵⁷ See LaFollette, ‘Animal Experimentation’, in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.818. See also, Singer, *Animal Liberation*, p.57.

⁵⁸ Singer, *Animal Liberation*, p.57.

⁵⁹ The polio vaccine (sometimes cited as a success story for animal research) was held up because using monkeys as models led researchers to the false conclusion that the infection was transmitted by a respiratory rather than a digestive route. According to the MRMC, ‘This erroneous assumption resulted in misdirected preventative measures and delayed the development of tissue culture methodologies critical to the discovery of a vaccine’. *A Critical Look At Animal Experimentation* (Medical Research Modernization Committee, 2006), p.2.

⁶⁰ *Ibid.*, p.2.

⁶¹ ‘Animal Testing’, *Vivisection Information Network*
 <<http://vivisectioninformation.com/indexe824.html?p=18>> [Accessed 5 March 2021].

⁶² Singer, *Animal Liberation*, p.81. However, Singer later (p.85) almost seems to contradict this when he argues that *if* a single experiment could cure a disease like leukaemia, then it would be justifiable – although he makes it clear that he is discussing this in relation to ‘extreme case’

The kind of evidence cited above for the failure of animal research in the development of safe human medicines and procedures has led a number of highly-qualified medical professionals to denounce it on pragmatic, clinical grounds.⁶³ Rowlands quotes Doctors Margot and Herbert Stiller (Doctors Against Animal Experimentation in Germany) who averred that, 'Practically all animal experiments are untenable on a statistical scientific basis', and Lester Lave, and others, writing in the journal, *Nature*, who considered that rodent cancer studies are 'scientifically invalid' and 'fiscally indefensible'.⁶⁴

On the basis of the kind of evidence cited above, Rowlands considers on balance that, 'It is difficult to make a case for animal research being in general, effective in promoting vital human interests' (not that it can never work or has never played an important role in medical advances), and that, 'It is systematically unreliable, and can often be detrimental to vital human interests'.⁶⁵

Alternatives to animal experimentation

While some animal ethics philosophers tend to equivocate somewhat over ending animal experimentation altogether, there seems to be, nevertheless, broad agreement that such experiments need to be phased out and replaced with alternatives wherever possible and better regulated in the interests of animal welfare in the meantime.⁶⁶ However, I would consider that this is looking through the wrong end of the binoculars, so to speak; the equation needs to be reversed: that is to say, unless and until all possible alternatives to animal experimentation have been exhausted, then there can be no moral grounds even for considering animals as candidates for experimental subjects in the first place. But even this is to concede too much: we would not (in modern liberal societies at least) consider it morally acceptable to say, for instance, 'We will consider ceasing to use slave labour only if we can find enough regular workers to build the new hospital'; or, 'We will consider ceasing to use conscripts on the front line only if we can get enough regular soldiers'.

scenarios. See also LaFollette, 'Animal Experimentation', in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.814.

⁶³ Two notable contributions come to mind: Pietro Croce, *Vivisection Or Science? An Investigation Into Testing Drugs And Safeguarding Health* (London and New York: Zed Books, 1999); and C. Ray Greek, MD and Jean Swingle Greek, DVM, *Specious Science: How Genetics And Evolution Reveal Why Medical Research On Animals Harms Humans* (New York and London: Continuum, 2002).

⁶⁴ Rowlands, *Animal Rights*, Chapter 5, Section 2, para. 4 and para. 13, respectively. The latter cites Lester B. Lave, and others, 'Information Value of the Rodent Bioassay, *Nature*, 336 (1988).

⁶⁵ Ibid., Chapter 5, Section 2, para. 1.

⁶⁶ See Singer, *Animal Liberation*, p.40, and pp.86-87; and Rollin, *Animal Rights*, Chapter 3, Section 8, para. 2.

This naturally raises the question of what we would use instead to develop medicines and healthcare if animal experiments were no longer an option. And here it is clear that proponents of animal research cannot reasonably claim that there is no other choice. Even a brief overview reveals that various kinds of techniques and technologies are already being successfully used or being developed alongside animal research. These include epidemiology, patient studies, autopsies, biopsies, follow-up studies of patients, *in vitro* studies, computer modelling, micro-dosing and microfluidic circuits ('organs on a chip'),⁶⁷ among others which are being developed continually, thanks to the efforts of organisations such as Europeans for Medical Advancement, and Animal Free Research UK (formerly the Dr Hadwen Trust) and others.

And, as Rollin points out, 'Computers can be used to teach some physiological information better and more predictably than animals, such as the effects of drugs on the cardiovascular system. Suturing, bone fixation, and other surgical skills can be learned on models prior to applying these techniques to live animals'.⁶⁸ On the other hand, he is sceptical as to whether such technology could replace animal experiments altogether: a possibility which he regards as 'utopian'. As he puts it, 'If we knew enough molecular biology, physiology, and biochemistry to model a mouse on a computer, we would probably not need to use animals!'⁶⁹ However, as we already know that mice (and other animals) are not good models for humans, then this would seem to undermine any argument for retaining their use anyway, except as a kind of methodological 'comfort blanket'. We do not need to model mice – we need to model humans.

One key problem here is that, because vivisection is the globally-established way of conducting initial medical research (and is a legal requirement for the licensing of all new medicines), animals are used in all medical experiments, successful or otherwise, but there is no way of knowing if non-animal research would have given similar or better results;⁷⁰ there is currently no way of running a control group experiment which would help us to distinguish between correlation and causation in overall outcomes, which means vivisection can take credit for the successes through the 'shotgun' effect.⁷¹ Perhaps taking away the 'comfort blanket' of vivisection would have driven more creative innovation and

⁶⁷ Rowlands, *Animal Rights*, Chapter 5, Section 3, paras 1–9. Microfluidic circuits, in which tissue from human organs can be tested in ways that emulate the way that they work in a real, living bodily system; indeed, they have been dubbed the nearest thing to a human body on a chip, and have been shown to obtain faster results and have far better predictive value than animal 'models'. MRMC, 'A Critical Look At Animal Experimentation', p.18.

⁶⁸ Rollin, *Animal Rights*, Chapter 3, Section 9, para. 10.

⁶⁹ Ibid., Chapter 3, Section 8, para. 2.

⁷⁰ Singer, *Animal Liberation*, pp.90-92.

⁷¹ LaFollette, 'Animal Experimentation', in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.802 and p.810.

methodologies, of necessity. As Singer also says, 'It is possible that medicine would have developed in a very different and more efficacious direction, emphasising healthy living rather than cure'.⁷²

This point resonates with Gary Francione's view that most of the ills that vivisectors are seeking cures for can be avoided entirely or greatly reduced.⁷³ And here we could consider ways in which the 'need' for vivisection could be reduced through lifestyle changes. We have already discussed the harms associated with a diet consisting of animal products – and to this we could add the fact that animals are used in research to address health problems arising from the common and addictive use of harmful products such as alcohol and cigarettes (and other recreational drugs), which could be considered to be 'self-inflicted' illnesses.⁷⁴ And, as Singer remarks, 'Why should animals be forced to smoke cigarettes when lung cancer could be virtually eliminated by humans not smoking in the first place?'.⁷⁵

Both Singer and Rollin also question the fact that we use animals to test an ever-increasing range of potentially harmful household products that we could easily do without.⁷⁶ For Rollin, the onus should be on producers to show why new toxic products are needed.⁷⁷ Singer makes a similar argument about the production of new drugs, when most areas of therapy are already heavily oversubscribed and drugs are prescribed for 'conditions which are common, largely chronic and occur principally in the affluent Western society. Innovation is therefore largely directed towards commercial returns rather than therapeutic need.'⁷⁸ Again, I would argue that unless and until all possible alternatives to animal experimentation have been exhausted in the first instance – and all but the most *vital* of products and the most unavoidable of human health issues have been dismissed as pretexts for such research - then there can be no moral grounds even for considering the use of animals as experimental subjects to begin with.⁷⁹

⁷² Singer, *Animal Liberation*, p.92.

⁷³ Francione and Charlton, *Animal Rights*, Principle 6, Section 2, para. 6.

⁷⁴ Rollin, *Animal Rights*, Chapter 3, Section 16, para. 14.

⁷⁵ Singer, *Animal Liberation*, pp.88-89.

⁷⁶ *Ibid.*, p.61.

⁷⁷ Rollin, *Animal Rights*, Chapter 3, Section 5, para. 16.

⁷⁸ J. P. Griffin and G. E. Diggle, *British Journal Of Clinical Pharmacology*, 12 (1981), 453-463, quoted in Singer, *Animal Liberation*, p.53.

⁷⁹ Alongside the vested interests of the pharmaceutical industry, one must also factor in the exploitation of animals in modern factory farming systems, which in itself is a main driver of the intensive use of antibiotics (about 70 per cent of which are used for this purpose), leading to the proliferation of antibiotic-resistant 'superbugs' that endanger human health. See 'Antibiotic-Resistant Bacteria And Factory Farming', *Advocates for Animals – Farm Sanctuary* (15 January 2016), in *Saving Earth, Encyclopedia Britannica* <<https://www.britannica.com/explore/savingearth/antibiotic-resistant-bacteria-and-factory-farming>> [Accessed 15 March 2021].

Animals vs humans as test subjects

Singer has memorably summed up the practical and moral dilemma for researchers with the elegant equation: 'Either the animal is not like us, in which case there is no reason for performing the experiments; or else the animal is like us, in which case we are wrong to perform an experiment in animals that would be prohibited in the case of human beings'.⁸⁰

As we have already seen, animals are unlike us in ways that make them poor models for research, and on many occasions human studies have yielded far better outcomes than animal experiments. Humans are also, of necessity, 'guinea pigs' during clinical trials of new drugs and clinical procedures anyway, which would seem to make it logical simply to carry out all essential medical research on human beings at the outset. This is not, I stress, to advocate torture or the use of unconsenting subjects, but a wider use of willing participants in the development of medicines and procedures, *after* the kinds of modern scientific lab methods listed above have already been conducted, to minimise any risks. If animal experiments have as little predictive value as has been indicated above it is difficult to see what role they would play in reducing any potential risks to the participants anyway.

While I am not advocating a literal transposition of animal experiments directly on to humans, which most would, I think, find morally objectionable, it is hard to pin down exactly why we think it is justifiable to accord humans this special moral status and protection but not animals.⁸¹ R. G. Frey, for instance, considers that if we can justify experimenting on animals on the basis of the alleged benefits, there is no intrinsic reason why such benefits could not also be used to justify experiments on humans at the same or a lesser level of functioning.⁸² Similarly, Rollin argues that, 'If a certain sort of research on human beings is considered to be immoral, a *prima facie* case exists for saying that such research is immoral when conducted on animals'.⁸³

My interpretation of this is that it is not an argument to justify vivisection of human beings but an argument *against* the vivisection of nonhuman beings; indeed, it seems plain that as the only factor that changes in the equation is the species of the experimental subjects, then it applies as an argument against vivisection of either humans or nonhumans. However, one is entitled to ask

⁸⁰ Singer, *Animal Liberation*, p.52.

⁸¹ See David DeGrazia, 'Regarding Animals: Mental Life, Moral Status, And Use In Biomedical Research: An Introduction To The Special Issue', *Theoretical Medicine And Bioethics*, 27 (2006), 277-84.

⁸² R. G. Frey, 'Vivisection, Morals And Medicine', *Journal Of Medical Ethics*, 9 (1983), 95-104, quoted in Singer, *Animal Liberation*, p.242.

⁸³ Rollin, *Animal Rights*, Chapter 3, Section 3, para. 1.

whether this applies even where little or no harm is entailed: if we agree that it may be acceptable to perform some experiments on humans, why would we object to the performance of similar experiments on nonhumans? A straightforward response to this is that this rests on the issue of consent: that is to say, adult humans can give free and informed consent but nonhumans (like young children) cannot. One could therefore reframe the question to ask, if we would not consent to certain experiments being conducted on children, how would we then attempt to justify similar experiments on nonhumans? The simple answer is that we could not, without contradiction, make such an exception.

At the same time, though, I would not consider it morally objectionable to treat, medicate, or operate on, nonhuman animals that are sick or injured if such interventions are intended for the benefit of that individual being (i.e., rather than that species in general), in the same way that we would normally consider it morally acceptable – or indeed a *duty* – to intervene in this way to protect the health and wellbeing of a sick or injured human child. That is to say, the potential distress of the intervention is judged to be less harmful to that being than not intervening, on the basis that their individual rights of autonomy and non-interference would be compromised. In other words, the benefit provides the morally relevant justification in that instance.⁸⁴

Benefits and interests vs harms assessment

It is worth remembering that animal research attempts to emulate human diseases and conditions (things that make *us* suffer) in nonhumans, before looking for ways of treating or alleviating those conditions. As Singer points out, ‘Typically, defenders of experiments on animals do not deny that animals suffer. They cannot deny the animals’ suffering, because they need to stress the similarities between humans and other animals in order to claim that their experiments may have some relevance for human purposes’.⁸⁵ Rollin concurs when he asks (in relation to research on genetic diseases) how – as the researchers are ‘modelling’ serious illnesses – they can possibly avoid the suffering that goes with them?⁸⁶ Indeed, as Singer reminds us, when pain research is carried out on animals the researchers are able to justify not giving any pain relief if it is ‘necessary’ to the experiment.⁸⁷

⁸⁴ The issue of obligations and what might be termed ‘implicit contracts’ with those who are weaker than us (i.e., between humans and nonhumans) is discussed in Chapter 5 of this thesis, which concerns various aspects of justice theory.

⁸⁵ Singer, *Animal Liberation*, p.40.

⁸⁶ Rollin, *Animal Rights*, Chapter 3, Section 21, para. 35.

⁸⁷ Singer, *Animal Liberation*, p.76.

In view of this, as Rollin has argued, we can make the demand ‘that the benefit to humans (or to humans and animals) clearly outweighs the pain and suffering experienced by the experimental animals’.⁸⁸ This clearly echoes the discussion around vital and non-vital interests raised earlier; and here Rowlands efficiently summarises the two sides of the debate in relation to vivisection. Thus, on the one hand, he argues: ‘To the extent that these animals are sacrificed to test products that do not promote vital human interests, what we do to these animals is morally wrong’;⁸⁹ and, ‘It is one thing to try to promote human vital interests, but if the methods one employs do not work, then they should not be adopted, no matter how laudable the goal’.⁹⁰ On the other hand, however, he says that *if* animal research *can* promote human interests (and if nothing else works), then none of the arguments [in his book] can count against it.⁹¹ His eventual conclusion is that, ‘[It] seems to be that most research conducted on animals is immoral. Alternatives to this research should, therefore, be pursued, for both moral and prudential reasons’.⁹²

It is difficult to disagree with Rowlands’ level-headed account, but I think this view still rests on arbitrary assumptions about the relative worth of nonhuman lives and, indeed of *their* vital interests. On the one hand it acknowledges that subjecting animals to harmful and fatal procedures is morally objectionable in itself; and on the other hand, it seems to consider that this could be set aside if human beings eventually benefit in some way from these experiments. Yet even if we discount the inherently flawed methodology and known failure rate of vivisection (which seems to have been forgotten in this equation), in what sense could even positive results of such experiments *ever* negate or discount the pain, suffering and loss of life that those same experiments? How does some kind of alleged benefit to humans take away the very thing that makes their experience matter morally in the first place?

The 19th-Century social commentator, poet and essayist, William Hamilton Drummond, was expressing similar concerns when he averred that knowledge obtained by cruelty is not worthwhile, and indeed, that nothing can justify cruelty. Why, he asked, do we not only doubt that the screams and cries of vivisected animals are indicative of their suffering, but also think our suffering more important than that which we inflict on these creatures?⁹³

⁸⁸ Rollin, *Animal Rights*, Chapter 3, Section 3, para. 10.

⁸⁹ Rowlands, *Animal Rights*, Chapter 5, Section 1, para. 7.

⁹⁰ *Ibid.*, Chapter 5, Section 2, para. 1.

⁹¹ *Ibid.*, Chapter 5, Section 3, para. 15.

⁹² *Ibid.*

⁹³ William Hamilton Drummond, *The Rights of Animals: Man’s Obligation To Treat Them With Humanity* [1838] (Hardpress, 2017), Chapter 9, Section 6, para. 44. Kindle ebook. Although old, the work anticipates a range of modern animal rights arguments and also provides remarkably vivid

A blanket response to those various rhetorical questions is that any attempt to justify such callous disregard for the vital interests of other living beings is nothing more than self-serving rationalisation. We cannot make such deliberate and extreme moral violation somehow benign or acceptable just because it may turn out to be advantageous to ourselves. Indeed, I would argue that it makes it worse, because it means that we seek or intend to profit from others' suffering. As Hugh LaFollette argues, on the basis of 'acts and omissions' it is morally worse to cause harm than to fail to prevent it in the future. Harm to the animals is definite; benefit to humans is only potential.⁹⁴

This makes it crucial not only that we demand hard evidence for the alleged benefits of vivisection but that we also demand to know precisely how and in what measurable and objective sense the alleged benefits *actually* outweigh the degree of suffering and loss of life that has accompanied the creation of such benefits.⁹⁵ (It is difficult to see how any kind of measurement criteria could be devised without the imposition of some kind of arbitrary scale of values in our favour, and against which all other animals score 'less' by default.) For there is, I believe, a danger that we may be persuaded that if the experiments are considered to work in any way at all, then they are morally justified; or, indeed, that *any* apparently vital benefits to humans, however short-lived, automatically outweighs the vital interests and the prolonged suffering and loss of life caused to nonhumans.⁹⁶

For this reason I would readily concur with LaFollette, who thinks the burden of proof (of the moral worth of animal experiments) is on the researchers.⁹⁷ It seems clear to me, based on what has been said above, that vivisection fails to meet the most basic moral and prudential criteria we can use to assess it. While many will still want to argue for the potential, or even the purely hypothetical benefits to humans, I do not consider that such alleged benefits are in themselves morally decisive even if they materialise. Indeed, there is nothing in the practice that, like all other forms of animal abuse, cannot be accounted for in terms of rank

and detailed accounts of the often wanton and sadistic cruelty involved in the (frequently pointless) vivisection experiments of the time.

⁹⁴ LaFollette, 'Animal Experimentation', in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, pp.814-15 and p.817.

⁹⁵ Ibid., p.812.

⁹⁶ See Korsgaard, *Fellow Creatures*, p.230; and Singer, *Animal Liberation*, p.91.

The parallels here with racist ideology and particularly with forced experiments conducted by the Nazis on concentration camp prisoners in the 1940s are difficult to avoid. See, for example, Charles Patterson, *Eternal Treblinka: Our Treatment Of Animals And The Holocaust* (New York: Lantern Books, 2002). See also Rebekah Humphreys, *Animals, Ethics, And Language: The Philosophy Of Meaningful Communication In The Lives Of Animals* (Palgrave Macmillan, 2023), pp.34-40 <<https://doi.org/10.1007/978-3-031-32080-4>>.

⁹⁷ LaFollette, 'Animal Experimentation', in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.820.

speciesism, arrogant self-priority and indeed wanton selfishness – ‘my life at any cost’ - that is implicit in our spurious justification and continuation of the practice.

Bare survivalism – a moral licence to kill?

What I have been moving towards is the idea that, ultimately, the things that we generally think of as essential are often merely historical cultural beliefs which have become reified into unquestioned common practices over time. And what seems common to the examples discussed above is that they are not only avoidable and unnecessary, but are actually harmful to other living beings and to ourselves and as such should be eliminated from our lives. But does this mean that there are no situations at all where we might claim an incontrovertible moral justification for harming and destroying the lives of nonhuman beings for the alleged benefits to humans?

It seems that the only remaining candidate is a situation where all other considerations have been stripped out of the equation and our actual and immediate bodily survival depends upon it. This is in keeping with a radical abolitionist perspective, in that killing can be morally permissible only in the most extreme circumstances, and in the absence of any other choice. (I will be referring to this again in Chapter 4, in the discussion of mercy and innocence.) That is to say, the same limitation that applies in the question of our right to kill other human beings – which in general is restricted to situations where one’s own life or others’ lives are in clear and present danger from a third party intent on killing them.⁹⁸

However, many will insist that it would also be permissible to kill an animal if we had no other source of food at all and were in immediate danger of starvation – that is, to protect our own interest in continued existence.⁹⁹ Singer also contends that killing animals except to survive is unjustifiable: that is to say, we ought to make it a basic principle not to kill except where it is necessary for survival.¹⁰⁰ For William Hamilton Drummond, this is the principle of ‘imperative necessity’, which

⁹⁸ Many would want to argue for compassionate euthanasia (‘mercy killing’) to be included here. There are good reasons for including mercy killing (i.e., killing motivated by the desire to prevent or end another’s unpreventable suffering) as a morally permissible act under the category of ‘extreme circumstances’, but I have not referred to it in this context because the question here concerns possible moral justifications for killing other living beings to satisfy our interests rather than their interests.

⁹⁹ Peter Sandoe, Stine B. Christiansen, and Bjorn Forkman, ‘Animal Welfare: What Is The Role Of Science?’, in *Animals, Ethics And Trade: The Challenge Of Animal Sentience*, ed. by Jacky Turner and Joyce D’Silva (London; Sterling VA: Earthscan, 2006), p.45.

¹⁰⁰ Singer, *Animal Liberation*, p.229.

is subject to certain strict conditions.¹⁰¹ As he puts it, 'We may pluck the fruit, not hew down the tree', and there is also a need for self-examination before killing.¹⁰²

A plausible candidate, then, seems to be subsistence hunting in a situation of impending starvation. And here a clear distinction is to be made between subsistence hunting and recreational killing or 'sport' hunting, even where this involves the victim(s) being consumed afterwards. Most hunting, especially in developed countries, is not vitally necessary, as other food sources exist.¹⁰³ Common pretexts for hunting turn out to be self-serving rationalisations, such as keeping animal populations down (when they are actually being managed to facilitate hunting stocks) and pest control, which really means protecting animals from being eaten by natural predators only so that we can eat them ourselves.¹⁰⁴

But does traditional subsistence hunting (including fishing) for survival qualify as a morally legitimate basis for killing animals? On the one hand, as Rowlands points out, since hunting animals involves killing them, this compromises the most vital interest they can have – i.e., of staying alive; thus, if hunting is carried out even when other sources of food are readily available, the 'vital human interests' criterion does not apply and it is therefore morally wrong. On the other hand, he argues, if hunting is carried out where there are no other food sources available, then it does meet the vital human interests criterion and is therefore not morally wrong'.¹⁰⁵

However, I still do not see this scenario as morally unproblematic, even though it may seem perfectly reasonable as a prudential or indeed commonsense basis for action and may even seem irrational to suggest otherwise. For one thing, it reinforces the notion of 'self-first' (that is, my needs are inherently more important than your needs), which clashes with Schopenhauer's dictum that any action tainted by self-interest is not a moral action.¹⁰⁶ In this regard it panders to the commonsense view that nonhuman interests can automatically be waived if some supposed benefit (or possible threat) to humans has been claimed.

If, indeed, the animals' vital interests *are* vital to them, it does not seem to clarify on what grounds we decide that they are *not* vital or are *less* vital than ours. Why, in Orwell's well-known phrase, do our interests become conveniently 'more equal' than theirs? How does such a justification differ, essentially, from Aquinas' dictum that 'the lower must serve the higher'? What else is this but the familiar

¹⁰¹ Drummond, *The Rights Of Animals*, Chapter 6, Section 1, para. 1.

¹⁰² Ibid., Chapter 6, Section 1, para. 2 and para. 16.

¹⁰³ Rowlands, *Animal Rights*, Chapter 6, Section 2, para. 2.

¹⁰⁴ Ibid., Chapter 6, Section 3, para. 1.

¹⁰⁵ Ibid., Chapter 6, Section 2, paras 1-2.

¹⁰⁶ Arthur Schopenhauer, *The Basis Of Morality*, tr. by E. F. J. Payne (Jovian Press, 2017), Part 2, Chapter 5, Section 1. Kindle ebook. (Schopenhauer makes similar statements throughout this section and elsewhere in the book.)

argument, thinly veiled, that the perceived inferiority of animals is in itself the only justification that we need to purloin their lives to save or gird our own? And if this is indeed the mechanism at work, why should that same principle not be applied to the apparent inequalities between human beings as well? On what grounds do we consider that it is moral to apply this principle to other species, except on the basis that they *are* other species?

The commonsense view is that – at least in the case of killing nonhumans - there is no case to answer: it is simply something that normal people would *have* to do in a dire emergency, where one might be hungry enough to eat candles or human corpses. Certainly, this would be a natural reaction – one cannot really say for sure, ‘I would never do this or that’ if one were actually facing death. But, morally speaking, how does this make killing another living being ‘all right’? Just because I am without food, how does this convert or resolve itself into stealing the life from another sentient being (human or nonhuman) which values its own life as much as I do my own? Where is the ‘necessary connexion’ (to misuse Hume’s phrase somewhat)?¹⁰⁷ How does ‘I am hungry’ entail ‘therefore you must die’?

To answer my own question, I do not think there is such a connection – it is a philosophical *non sequitur*. It is the ultimate sticking point, for I do not believe that there can ever be any moral grounds for giving person/being A greater rights to kill and eat (or otherwise abuse) person/being B than *vice versa*. Indeed, I think it would be more honourable, morally speaking – on the basis of ‘acts versus omissions’ at least - better to give in and die than to live on the back of the deliberate slaughter of others, otherwise one is cornered into the position that *my* vital interests are intrinsically more important than *yours*. To envisage a familiar science-fiction or disaster scenario, if only two of us remained alive after a space-shipwreck on some distant, hostile world, with only enough vital supplies and life-support for *one* of us until the arrival of the rescue ship, the choice over which ‘me’ mattered most and which ‘me’ needed to be sacrificed would always be an arbitrary one; if we did not agree to decide by drawing lots or saintly self-sacrifice, we would be obliged to decide not on the basis of who was ‘better’, but who was in some way able to ‘better’ the other. (The question of the moral validity of the criteria we commonly apply in such comparative judgements of the value of one life over another, particularly in relation to situations of conflicts of interest

¹⁰⁷ Hume uses the phrase to indicate the idea of causation – that is, of one physical event occurring apparently as a direct result of another, such as a cue striking a billiard ball and causing it to move. I have borrowed the phrase, with apologies, to indicate the idea of one given situation leading to another situation or event as a matter of apparent necessity. See David Hume, *An Enquiry Concerning Human Understanding* (Oxford: Oxford University Press, 2008), Section VII, ‘Of the Idea of Necessary Connexion’, pp.44-57; and David Hume, *A Treatise Of Human Nature* (Wentworth Press, 2016), Book I, Part III, Section XIV. Kindle ebook.

between beings or species who have unequal capacities or abilities – between humans and mice, for example - will be discussed in Chapter 5.)

The Illusion of ownership

What the choice mentioned in the penultimate sentence above entails is the idea that, if I *can* override your vital interests, therein lies my entitlement to do so; my life is (because I have the capability to impose my opinion) more important than yours, and I am *entitled* therefore to take your life in order to preserve mine. In this, again, it seems – even if we restrict ourselves to *vital* interests – we are still shackled to the basic presumptive ‘the lower serving the higher’ right argued for by Aquinas. This arrogant supposition is what lies beneath our whole notion of animals as existing for us first and themselves last, which in turn underlies all the suffering that we visit upon them. It amounts to a presumption of rights to convert a thing (properly, a being) as it is in itself to a thing in *myself*; it now exists for *me* in some way or another more than it exists for itself; even if I kill another being I have in effect made it *mine*; I have changed what it is into something less; I have apparently made it my *property*. But can this *actually* happen?

I have purposefully saved this crucial aspect of the debate for the end of the chapter, having worked through and rejected what we commonly regard as undeniably needful uses of nonhuman beings in ordinary circumstances. And what I now want to get at is on what grounds we think it is possible legitimately to claim to ‘own’ nonhuman animals. I argue that we do not and cannot. And in this, I am again expressing an abolitionist view, which considers that animals are not property and have the right not to be treated as such. To use them as property is to make them ‘things’: and (with an important departure from what has been argued in Rowlands’ account) we cannot do so, *even if it is of benefit to us*.¹⁰⁸

I would therefore argue, simply, that there can be no ownership rights over the bodily life of another sentient being on any pretext whatsoever. As we commonly say, and accept, this body, this vehicle through which I experience the world is *my* body; and the life and experience that I have within it and through it is *my* life, *my* experience. And this locus of experience and sensation is simultaneously both *me* and *mine* by default: me and mine are in effect a unity, fused together and only separated in abstraction. (And here, I am using ‘I’, ‘me’ and ‘mine’ to denote any sense or awareness within any conscious, living being that *this entity* is the locus of experience. I am not concerned here with ‘who’ I am as an identity, but simply

¹⁰⁸ See Francione and Charlton, *Animal Rights*, Principle 1, Section 1 and Section 8.

that I am.) This ‘thinking thing’¹⁰⁹ (or indeed this conscious ‘sensing thing’) that seems to be here at the centre of existence that I take myself to be is irreducible in the sense that it cannot be anything other than itself.

If it is true to say that the entity ‘in here’ is simultaneously both experiencer and possessor the two things cannot be separated in the way that other property can be separated, so that some particular quantity or asset can be transferred from one proprietor to another, legally or by force. You cannot legitimately take my life and make it your own, because by definition it is my own; I am the subject and experiencer of it, as you are of yours; this body is myself – not *yourself*. And if you do take my life (i.e., by killing me), there is nothing equivalent that you can give me in exchange or by way of compensation – even if you forfeit your own life - because I am no longer there to receive it. By the same token, I could not voluntarily give my life to you. Even if I were to choose to die on your behalf (in a line-up awaiting execution, for instance), my life would not then literally transfer to you; it would merely cease to exist as ‘my life’, but you would at least still have yours.

Thus, life itself is non-transferable in a legal or a moral sense; nothing can make another’s life belong to you, in principle or in practice. Even if one disagrees with the notion that we really do ‘own’ our own bodies (again, thus phrased it reveals the absurdity of doubt in this regard), it makes no sense to argue that another person can therefore have more rights over that body, my life, my being than I have myself. Either *I* own it or *nobody* does. And if *nobody* does, then *nobody* is entitled to claim ownership over it or treat it as property.

If this is so, one can never do more than *steal* the life of the body of another being. And the usurper is always a thief and a destroyer, even if they claim that they have taken a life on the basis of a right, or that what they have been done has been ‘paid for’. You cannot break into someone’s home, kill the occupant(s), make off with their property and later claim that you are now the legitimate owner because the previous owner is dead. And, crucially, I do not need to prove that I have ownership and disposal rights over my own body and all that goes with my bodily existence. I do not need to claim a title deed back from another party to claim rights over my own body, to claim entitlements over it. All I need to do is point out that you do not and cannot have such rights in my stead. It is up to you to prove that you do.

This, ultimately, is how I would interpret the idea (intrinsic to Regan’s account) that we cannot legitimately treat a sentient being (i.e., not only a human being) as a means rather than as an end in itself. But what I think needs to be emphasised

¹⁰⁹ John Locke, *Essay Concerning Human Understanding*, Chapter 27 (‘Of Identity And Diversity’), Section 9. Reproduced in *Personal Identity*, ed. by John Perry (Berkeley, Los Angeles and London: University of California Press, 1975), p.39.

in this account is that it is not merely that we do wrong to treat animals as if they were property, but that in doing so we are acting in a way that is aberrant in a fundamental, metaphysical sense. When we take the life of another living being we violate a given state of nature to render it into a lower state of nature, in the form of a corpse or derivative products and substances. This is not just to make instrumental use of a living being but to *make* it a thing in order to treat it as a thing. It contradicts what it (he/she) actually is: it defines it in a way that pays no respect to its essence, its *telos*; it is, in effect, a kind of lie, a misrepresentation of what would otherwise be before us. Killing is a form of theft that changes the nature of the thing that has been stolen, like melting down a priceless and unique ancient artifact into an anonymous slab of gold. What was originally stolen no longer exists, but the theft took place nevertheless; and the world in some small but significant way has become *less*.

If this reasoning is correct, the entire concept of trying to convert the life of another conscious being into property is not merely wrong but actually a kind of illusion: even if one claims to need to use that property for one's own good, it cannot happen in reality. And yet we commonly continue to treat nonhuman animals as property and they are categorised as such in law. And indeed, we think that we can prove this with bills of sale that are not even made out to them but to their 'owners'. There are no legitimate grounds to authorise this ultimate form of compulsory purchase. No other party can take away the life of the body of another except through theft. To try to take something that cannot rightly belong to you, that is not and indeed *cannot* be freely given, nor bargained for, is like trying to sell Tower Bridge or the Grand Canyon to a gullible tourist. It is not yours to sell in the first place, however much you insist that it is, however much you might need the proceeds - and even if you were able to manage to persuade the gullible tourist to buy it from you. Any transaction on this basis is, legally and morally, null and void.

If the arguments in this chapter are correct, it seems that there can be no legitimate means by which we can 'own' and treat other living beings as property, which entails that we can have no basis for rights deliberately and proactively to override their vital interests in the pursuit of our own – indeed, we have only the negative right (or duty) *not* to do so.

This is the baseline position from which I will be proceeding throughout this work. Now, having set this out, I will next move on to consider more closely the implications of our common and collective infraction of this moral duty; that is to say, what makes it *matter* that we abuse and kill nonhumans in the way that we commonly do – in other words, how we can say that we do wrong to *them*.

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Chapter 2

Proofs of pain versus pain denial: the moral implications of sentience and suffering in nonhumans

This chapter follows on from the issues raised in Chapter 1 but bears an oblique relationship to it in the sense that these following observations augment rather than formally prove those arguments (which I think already stand in their own terms). The first chapter defines a kind of ‘line in the sand’, drawn to indicate the boundaries beyond which we humans have no moral right to proceed in our dealings with nonhuman beings, and the basis for our duty not to cause them harm. At the same time, however, even with this caveat, we may still reasonably ask what it is about doing harm to nonhumans that makes it matter. It may be that we have no right to cause such harms, but what actually makes it *wrong* – what is the basis for our obligation not to cause such harms?

To offer an analogy: in normal circumstances, a landowner is not required to prove their right to protect their land against trespassers. Ordinarily, ‘because it belongs to X’ is the end of the matter – it is irrelevant whether others think that X should not own that land or that it should be freely available for public recreation. However, it may be that the land is fenced off to protect crops from damage, in which case there is a specific justification for access being restricted, but X does not need to *prove* that the land is being used productively in order to uphold their legal rights to protect their property.

Similarly, the material in this chapter (and indeed the next two chapters) does not necessarily aim to justify why the above-mentioned ‘line in the sand’ (i.e., the boundary beyond which human activities trespass on nonhumans’ vital interests) should exist in the first place but is offered, rather, to explain why it *matters* that it is there and that we humans do not step over it – or, more characteristically, trample all over it in an attempt to erase it.

Vital interests and ‘harms that hurt’

In Chapter 1, we considered various ways in which vital interests of nonhumans may be compromised, including those which are disregarded when an animal is killed. However, it is somewhat artificial to discuss harms to nonhuman interests without acknowledging that we are really concerned with the immediate actuality of such harms to *them*. Exploiting and killing animals does not simply ‘compromise their interests’ as though we were discussing a deficit in a profit and

loss account but causes them some tangible physical or psychological hurt; when we infringe their rights, we impact adversely on their personal¹ welfare, their immediate, lived experience, and ultimately, we take their lives from them too.

If nonhumans are sentient (which I will go on to argue they are) the loss is not merely counted but felt. It is wrong not merely because it contravenes a recognised (or unrecognised) moral principle but because it is wrong to *them*. This is the crux of the matter; this is why it matters, and in the case of the animals it is negative mattering² on a monumental scale.

In relation to nonhuman beings, 'harm' is being used here more or less synonymously with some form of violation or violence. And for abolitionists, violence against the vulnerable is inherently wrong.³ Indeed, abolitionism is against all violence. As Gary Francione remarks, 'As long as we tolerate violence of any sort, we will tolerate violence of every sort, whether we are talking about humans or nonhumans'.⁴

It is also worth stressing here that there is no reason to accept what Elizabeth Harman calls 'the surprising claim' that it is wrong to cause suffering to animals but not wrong to kill them humanely.⁵ Such a distinction rests on speciesist assumptions about the value of nonhuman lives: we would not claim that murder is acceptable as long as it is done painlessly; yet it is commonly held that we may kill animals for our own purposes as long as they do not suffer. It seems inconsistent and artificial, then, to regard 'taking life' and 'causing pain' as separate entities, particularly for many nonhumans, for whom unrelieved pain, suffering, fear and degradation are the very condition of their existence up until, and including, the moment when they are killed. One could see their lives as harms from beginning to end – in effect, non-lives, anti-lives, travesties of the kinds of lives that they would otherwise have led.

Harman likewise argues that if it is wrong to cause an animal severe pain, then it is also wrong to kill an animal. Essentially, causing harm – in the sense of depriving a

¹ In anticipation of objections to this term, I am not necessarily assuming the personhood of animals but merely avoiding a clumsier alternative such as 'person-equivalent' – i.e., to indicate what pertains to any individuated conscious being.

² For Bernard Rollin, this term indicates any kind of harm or distress, not only painful events. See Bernard E. Rollin, 'Animal Pain: What It Is And Why It Matters', *The Journal Of Ethics*, 15:4 (2011), 425-437 (p.428) <<https://doi.org/10.1007/s10892-010-9090-y>>.

³ Abolitionism here means the call to end all forms of animal exploitation and harm. Gary L. Francione and Anna Charlton, *Animal Rights: The Abolitionist Approach* (Exempla Press, 2015), Preface, Section 1, para 4. Kindle ebook.

⁴ Ibid, Principle 5, Section 4, para. 6.

⁵ Elizabeth Harman, 'The Moral Significance Of Animal Pain And Animal Death', in *The Oxford Handbook Of Animal Ethics*, ed. by Tom L. Beauchamp and R. G. Frey (Oxford and New York: Oxford University Press, 2011), pp.727-28.

being of good – could include causing harm by depriving an animal of its life.⁶ To concur with Harman, then, death and suffering can both be regarded as instances of harm; while it is possible to have the two experiences separately, they can of course occur together – that is to say, one can *suffer* death. However, while death is clearly a serious harm in itself, suffering compounds and exacerbates that harm. Indeed, for most people, suffering is the worst harm of all: faced with the prospect of unrelieved and extreme suffering (as with terminal illness for instance) many would prefer death or even plead for death in order to escape it.⁷ Where the suffering is very great, some people are driven to take their own lives; there are also rare anecdotal accounts of nonhumans apparently ending their own lives, although the idea of animal ‘suicide’ remains controversial.⁸

The moral benchmark of sentience

The capacity for consciously *experiencing* harm is crucial to this debate. Harms are not merely occurrences of damage that happen to *something*, but events that happen to *someone* – that is, to an entity capable of consciously experiencing an event as something that harms their own being and causes them hurt.⁹

For this reason, sentience provides the benchmark from which animal rights philosophers commonly work. For if nonhumans are sentient, then what happens to them matters in the same way that what happens to us, matters to us.¹⁰ Many commentators therefore consider that sentience is a sufficient condition for recognising the moral significance of nonhuman beings.¹¹ They have a right not to

⁶ Harman, ‘The Moral Significance Of Animal Pain’, pp.727-28.

⁷ Rollin, *Animal Pain*, p.430.

⁸ William Hamilton Drummond recounts a verified anecdote of dog who, after being punished by its otherwise doting owner, went to a nearby river where, according to onlookers, ‘with great deliberation’, it drowned itself. William Hamilton Drummond, *The Rights Of Animals: Man’s Obligation To Treat Them With Humanity* [1838] (Hardpress, 2017), Chapter 8, para 18. Kindle ebook. However, modern researchers are sceptical about such behaviour. See, for example, Dr Michael W. Fox, *The Boundless Circle: Caring For Creatures And Creation*, (Illinois and Madras: Quest Books, 1996), p.19. See also Kristin Hugo, ‘SeaWorld Orca Was Trying To Save Itself, Not Kill Itself’, *National Geographic* (8 June 2016) <<https://www.nationalgeographic.com/animals/article/seaworld-orca-morgan-beaches-tenerife-canary-islands>> [Accessed 19 May 2021].

⁹ This is not to imply that causing harm of some kind is acceptable as long as it does not hurt (destroying the rainforests for instance), but rather to make a working distinction between two aspects of the wider argument.

¹⁰ See Christine M. Korsgaard, *Fellow Creatures: Our Obligations To The Other Animals* (Oxford: Oxford University Press, 2018), p.148.

¹¹ Michael Bradie, ‘The Moral Life Of Animals’, in *The Oxford Handbook Of Animal Ethics*, ed. by Tom L. Beauchamp and R. G. Frey (Oxford and New York: Oxford University Press, 2011), p.559. See also David DeGrazia, *Taking Animals Seriously: Mental Life And Moral Status*, (Cambridge, New York and Melbourne: Cambridge University Press, 1996), p.3.

be harmed; they matter in their own right.¹² Indeed, sentience and consciousness in nonhumans form the basis of our moral obligation not to harm them on the same basis that we should not harm other human beings.¹³ Put simply, the pain caused to someone (or any creature) *is* the reason not to do it.¹⁴

That said, however, it would not be right to present sentience as an unproblematic concept.¹⁵ Some commentators believe that sentience is not a one-size-fits-all capacity but may vary according to species. For instance, Mary Midgley¹⁶ and Martha Nussbaum consider that the capacity for suffering increases with more complex nervous systems. Nussbaum also considers that the specific ways in which a creature can be harmed are derived from their particular capacities (not species membership), hence some animals may be harmed more than others depending on their complexity.¹⁷ These are moot points, and I think Nussbaum's account is problematic in that it seems to leave the way open for speciesist hierarchy via the back door. However, we will visit these issues in due course ('capabilities' in particular will be discussed in Chapters 3 and 5), but for now I am focusing specifically on nonhumans' capacity for pain *per se* (that is, whether they experience it in any form).¹⁸

While it is now generally accepted that sentience is an evident and morally relevant capacity in human beings, some consider that harm is morally significant *only* in relation to human beings and may deny even the most basic subjective experience of suffering to most nonhuman beings in favour of maintaining human

¹² This commonsense view is acknowledged to a degree in law: for instance, the EU's Amsterdam protocol recognised the fact that 'farm' animals are not simple commodities but sentient beings, capable of pain, pleasure and suffering - which commits all animal users to a form of contract with them. John Webster, 'Ideals And Realities: What Do We Owe To Farm Animals?', in *Animals, Ethics And Trade: The Challenge Of Animal Sentience*, ed. by Jacky Turner and Joyce D'Silva (London; Sterling VA: Earthscan, 2006), p.152.

¹³ Mary Midgley, *Animals And Why They Matter* (Athens, Georgia: University of Georgia Press, 1998), p.91.

¹⁴ Jonathan Dancy, 'Intuitionism', in *A Companion To Ethics*, ed. by Peter Singer (Malden, MA; Oxford; Victoria: Blackwell Publishing, 1993), p.418. See also, James Rachels, referenced in Christopher Morris, 'The Idea Of Moral Standing', in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.270.

¹⁵ Marc Bekoff (among others) has questioned why sentience rather than simply being alive should be the decisive factor. See Marc Bekoff, 'Animal Emotions And Animal Sentience And Why They Matter: Blending 'Science Sense' With Common Sense, Compassion And Heart', in *Animals, Ethics And Trade*, ed. by Turner and D'Silva, p.30.

¹⁶ Midgley, *Animals And Why They Matter*, p.90.

¹⁷ Martha Nussbaum, 'Beyond Compassion And Humanity: Justice For Nonhuman Animals' (chapter), in Martha Nussbaum, *Frontiers Of Justice: Disability, Nationality, Species Membership* (Cambridge, MA: Harvard University Press, 2006), p.361 and p.386.

¹⁸ This also ties in with and parallels the problem of 'backdoor' speciesism in utilitarianism. I will be looking at this issue in Chapter 6, which focuses on conventional ('synthetic') ethical systems.

interests in their instrumental value.¹⁹ And this has engendered the kinds of evasions and rationalisations exemplified by the animal exploitation industries.²⁰

Certain academic sceptics have argued outright that nonhumans do not feel pain (at least in any conscious sense) – and indeed consider that the onus is on others to provide proof that they do. The task now, then, is to consider the evidence that animals feel pain, before going on to consider the contrary arguments put forward by pain sceptics.

The empirical evidence that nonhumans experience pain and suffering

The evidence from which we may infer that nonhuman animals in general feel pain is well-documented and resonates closely with ordinary intuitional notions about their status as sentient beings. Three government departments in 1951 said, ‘We believe that the physiological, and more particularly the anatomical, evidence fully justifies and reinforces the commonsense view that animals feel pain’.²¹ In other words, empirical science not only gives us no reason to doubt our common intuitive sense of animals’ pain but may sometimes surpass what we might dare infer from our own ordinary experience of them.

A very concise summary and overview of the evidence²² is offered by Matthew Scully:

‘Animals experience pain’ is a conclusion drawn inductively from some basic facts of biology and veterinary medicine. Most vertebrates and all of our fellow mammals have similar chemical and neurological mechanisms that transmit and control pain. Under stress or trauma, they display physiological reactions identical to ours – increased heartbeat and perspiration, higher cortisone levels in the blood, a release of endorphins, serotonin, and other natural opiates. Their bodies respond to anaesthetics just as our bodies do, and of course they display vocalisations, defense behaviour, and bodily contortions similar to ours.²³

¹⁹ See Ben Mepham, ‘The Ethical Matrix As A Decision-Making Tool, With Specific Reference To Animal Sentience’, in *Animals, Ethics And Trade*, ed. by Turner and D’Silva, p.142.

²⁰ As Matthew Scully notes, while it avoids admissions of animals’ capacity for pain and suffering, the livestock industry accepts animal stress as real (i.e., because it affects the quality of the meat and therefore profit). Some have even tried to breed out the so-called ‘stress gene’ from farm animals. Matthew Scully, *Dominion: The Power Of Man, The Suffering Of Animals, And The Call To Mercy* (New York: St Martin’s Griffin, 2002), p.242.

²¹ Peter Singer, *Animal Liberation* (London: The Bodley Head, 2015), p.13.

²² Singer also gives an equally valuable summary of the evidence, in which he notes that, ‘Nearly all the external signs that lead us to infer pain in other humans can be seen in other species’. I have selected Scully’s version here simply in the interests of brevity. See, Singer, *Animal Liberation*, p.11.

²³ Scully, *Dominion*, p.218.

The similarity between human and nonhuman reactions to pain is also evidenced by pain threshold experiments on various species (including humans).²⁴ Indeed, as Colin Allen notes, much of our current knowledge of pain mechanisms is based on animal studies.²⁵ (Rollin remarks on the irony of animals being used as ‘pain models’ even though they were supposedly unable to feel pain.)²⁶ However, Allen’s account, which focuses very closely on comparative neurology, is cautious about attributing scientific consensus to the issue of conscious pain in animals on the basis of what we can infer from their behaviour, and stresses the limitations in current investigative approaches.²⁷

Pain behaviour

While the caveat above is acknowledged, many commentators remain convinced that the evidence for animal pain is strong or even overwhelming.²⁸ Certainly, nonhumans *act* as if they feel pain, even from relatively minor injuries; more so when they are seriously harmed, when they typically cry out, grimace, writhe and thrash about. As Drummond remarks, ‘Their mute imploring looks, their groans and cries, their wincing, starting and contortions, too plainly indicate the intensity of their suffering’.²⁹

Even when animals are not so demonstrative, we can still infer pain from their behaviour. Masson records that domesticated sheep get mites that cause sheep scab, which irritates them so intensely that they rub off their own wool and sometimes their own skin.³⁰ We also know that de-beaked chickens (whose beaks have nerve-endings similar to those within the nail beds of our fingers), for instance, often go into a kind of shock and some cannot feed properly for long periods after the mutilation and some may even bleed to death.³¹

It is interesting that people who directly witness animals being slaughtered or tortured are often deeply upset by the experience.³² As even Aquinas remarked,

²⁴ Ros Clubb, ‘The Welfare Of Animals Bred For Their Fur In China’, in *Animals, Ethics And Trade*, ed. by Turner and D’Silva, p.189.

²⁵ Colin Allen, ‘Animal Pain’, *Nous*, 38:4 (2004), 617-643 (p.625)
<<https://www.jstor.org/stable/3506216>> [Accessed 22 April 2019].

²⁶ Rollin, ‘Animal Pain’, p.433.

²⁷ Allen, ‘Animal Pain’. This is an extremely basic interpretation of Allen’s highly detailed and admirably even-handed account of the science from both sides of the debate, which deserves to be read in full.

²⁸ Clubb, ‘The Welfare Of Animals’, p.189.

²⁹ Drummond, *The Rights Of Animals*, Chapter 8, para. 17.

³⁰ Jeffrey Masson, *The Pig Who Sang To The Moon: The Emotional World Of Farm Animals* (London: Jonathan Cape, 2004), p.115.

³¹ Juliet Gellatley with Tony Wardle, *The Silent Ark: A Chilling Expose Of Meat – The Global Killer* (London and San Francisco: Thorsons, 1996), p.14.

³² Drummond gives numerous extremely graphic accounts of 19th-century public demonstrations of entirely useless and brutal vivisection experiments involving live and fully conscious animals such

‘Our pity is aroused by animals because even irrational animals are sensible to pain’.³³ Nowadays (at least in the West) outright cruelty is largely hidden from public view - and this may give most of us a false, anodyne sense of how *much* pain and distress animals are in when they are being tortured or killed. Thus, unfortunately, to make the case for the reality of animal pain, one feels it necessary to emphasise the very extremes of nonhuman suffering to make any impact at all.

Physiological and neurological indications of pain

As well as reacting outwardly to pain in similar ways, humans and nonhumans display similar internal biochemical processes in response to pain. For example, vertebrates (and many non-vertebrates) produce natural chemicals in response to injury that enable them to (a) experience pain and (b) manage that pain or feel it less intensely. Of particular interest in (a) is what is known simply as Substance P - a chemical associated with pain in humans, and which is present and active in all vertebrates.³⁴ However, the pain response appears to be very widely shared. Indeed, as Dunayer goes on to say:

There is strong evidence [...] that every animal with a brain can experience pain, as well as growing evidence that every animal with a nervous system can. All nervous systems have a shared ancestry and myriad physiological similarities. Their capacity to feel pain confers survival advantages. Evolution would be inextricably disjunct if only humans, only mammals, or only vertebrates could suffer.³⁵

This is supported by the fact that invertebrates and the simplest creatures at the peripheries of the animal kingdom also seem to have the capacity to experience pain. Some scientists think that ‘even’ dust mites (which are related to spiders) can feel pain.³⁶ This concurs with evidence concisely cited by Dunayer, such as the fact that numerous invertebrates can produce natural opiates and Substance P, including crustaceans (such as crabs, lobsters and shrimps), insects, and molluscs (such as octopuses, squids and snails). Such creatures also learn not only to avoid direct ‘negative stimuli’ such as electric shocks but will avoid even neutral or

as pigs and dogs being strapped to a table and cut open to inspect the working of their major organs. Sometimes, the screaming of the animals so upset the audience that the ‘experiments’ had to be stopped. One witness described the obvious signs of agony in one dog as ‘greater than anything indicative of excruciating pain than I have ever witnessed before or since’. See Drummond, *The Rights Of Animals*, Chapter 9, Section 6, para. 31.

³³ Quoted in Singer, *Animal Liberation*, p.195. However, as Singer notes, Aquinas is thinking purely from an indirect duty perspective – that is, with regard to our sensibility to the suffering of other human beings.

³⁴ Joan Dunayer, *Speciesism* (Derwood, Maryland: Ryce Publishing, 2004), p.20.

³⁵ *Ibid.*, p.129.

³⁶ Korsgaard, *Fellow Creatures*, pp.216-17.

positive stimuli (such as food) if these are associated with some kind of pain event. Moreover, radial invertebrates (such as jellyfish) which have nervous systems but no brains also produce Substance P and try to get away from electric shocks or harmful chemicals. Likewise, sea anemones learn to associate bright light with electric shock.³⁷ As Dunayer remarks, 'To learn such avoidance, animals must remember a negative experience – most likely, pain'.³⁸

To pick up a crucial point above, not only do crustaceans, insects and molluscs *act* as if they experience pain, but earthworms, flatworms and leeches (which coil up or writhe when pinched or pierced) produce natural opiates. And if they are given morphine, their efforts to escape aversive pressure become less intense. Other invertebrates, too, show less reaction to a noxious stimulus if they are given morphine.³⁹

In other words, not only do invertebrates appear to experience pain relief from natural opiates but they also respond less to pain when they receive painkillers – just as humans and other vertebrates do.⁴⁰ Likewise, in an obviously cruel but revealing experiment, trout who had acetic acid injected into their lips exhibited distress for up to three hours by rubbing their lips against objects and rocking their bodies from side to side, and did not feed. But, again, they reacted less when injected with morphine.⁴¹

It is a short step, I think, from there to the nearest thing we currently have to the 'smoking gun' of animal pain – that is, the fact that animals not only respond to analgesics but will self-medicate with painkillers if given the opportunity. In one study, injured broiler chickens voluntarily chose food laced with pain killers (which was avoided by uninjured chickens in a control group);⁴² in another study, nerve-damaged rats also self-administered a pain killer, CB2 (again, unlike the uninjured control group, which avoided the drug).⁴³ If animals were not phenomenally conscious of both pain and *relief* from that pain, it is very difficult to explain why they would so readily choose and indeed seek out analgesic pain relief in this way.

³⁷ Dunayer, *Speciesism*, p.129.

³⁸ Ibid., p.128.

³⁹ Ibid.

⁴⁰ Ibid., p.20.

⁴¹ Ibid.

⁴² See Danbury, T. C., and others, 'Self-selection Of The Analgesic Drug Carprofen By Lamé Broiler Chickens', *Veterinary Record*, 146:11 (2000), 307-311, British Veterinary Association <<https://bvajournals.onlinelibrary.wiley.com/doi/10.1136/vr.146.11.307>>.

⁴³ Gutierrez, Tannia, and others, 'Self-medication Of A Cannabinoid CB2 Agonist In An Animal Model Of Neuropathic Pain', *Pain* 152(9), 1976-1987 (September 2011) <DOI: 10.1016/j.pain.2011.03.038>.

There is also an evident functional relationship between the subjective experience of pain among living beings and their immediate and long-term survival. Humans born with congenital analgesia are insensible to pain and thus do not feel cuts, bruises and even bone fractures, which leads to serious health problems such as untreated infections, and premature death. Thus, as Dunayer says, 'Pain is protective. It tells people what to avoid. If nonhumans couldn't experience and remember pain, they continually would harm themselves'.⁴⁴ (Interestingly, the pain sceptic, Peter Harrison makes this point himself in his own account, which will be discussed presently.)⁴⁵

The opposing view: the denial of animal pain

The notion that nonhuman animals do not experience pain or have phenomenal experiences is related to the idea that animals are only capable of stereotyped, automatic or 'functionalist'⁴⁶ repertoires of behaviour and that we commonly misinterpret these as conscious choices, actions and responses. This is the notion of animals as mindless and unfeeling robots, which derives ultimately from Descartes' writings,⁴⁷ along with the view that we may therefore kill them with no qualms of conscience.⁴⁸ For animal pain sceptics and deniers the burden of proof is always upon researchers to prove that nonhumans are conscious or sentient in any real sense. (We will go into this further in the next chapter, which concerns animal capabilities and consciousness.)

Peter Carruthers

Perhaps the best-known of these Neo-Cartesian pain sceptics is Peter Carruthers, who has posited that animals (for which he retains Descartes' archaism, 'brutes') do not experience pain on a conscious level. While it is acknowledged that Carruthers modified his view somewhat in his later work, in effect allowing 'first order' pain experiences in at least some nonhumans,⁴⁹ his previous work (in

⁴⁴ Dunayer, *Speciesism*, p.20. Sufferers of Leprosy also experience similar analgesia and serious health problems associated with untreated injuries and infections.

⁴⁵ Peter Harrison, 'Do Animals Feel Pain?' *Philosophy*, 66:225 (1991), 25-40 (p.32) <<https://www.jstor.org/stable/3751139>> [Accessed 22 April 2019].

⁴⁶ Michael Tooley, 'Are Nonhuman Animals Persons?', in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.343.

⁴⁷ Rollin notes that no recorded thinkers before Descartes denied that animals felt pain – an idea which also contradicts notions of ordinary common sense throughout history. See Rollin, 'Animal Pain', p.433.

⁴⁸ Tooley, 'Nonhuman Animals', in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.355.

⁴⁹ Peter Carruthers, 'Suffering Without Subjectivity', *Philosophical Studies*, 121 (2004), 99-125, referenced in Sahar Akhtar, 'Animal Pain And Welfare: Can Pain Sometimes Be Worse For Them Than For Us?', in *The Oxford Handbook of Animal Ethics*, ed. by Beauchamp and Frey, p.497.

particular his paper, 'Brute Experience')⁵⁰ serves to illustrate the kind of extreme sceptical view that is being discussed here, which is also apparent in the work of other commentators such as Peter Harrison, whom we will come to presently.

In that paper, Carruthers distinguishes between conscious and unconscious mental states, and observes that humans sometimes have nonconscious experiences in everyday life (when one is deeply distracted or driving on 'autopilot', for instance).⁵¹ He also considers the neurological phenomenon of 'blindsight' – where brain damage or surgery disrupts the normal processing of visual information, so that a person may react to events such as a ball being thrown without consciously realising that they have seen anything.⁵² It is also known that we can be injured without realising it (soldiers in battle, for instance), or may have pain but be less aware of it, for instance as a result of taking morphine, which according to Carruthers apparently does not stop pain but stops one caring about it.⁵³

However, where Carruthers goes awry is in taking specific, demonstrable observations about *humans*, i.e., that some people may sometimes react non-consciously to sensory information or stimuli such as pain, and then making this seem to support the general hypothesis that nonconscious pain is the default condition of *nonhumans*. Here, Carruthers in effect seems to try to progress from proposition to conclusion along the lines of (in my interpretation):

'Some humans experience nonconscious pain'.

'Animals ('brutes') may also experience nonconscious pain'.

'Animals in general probably do not experience conscious pain'.

It is difficult to follow Carruthers' reasoning here because these steps ('landings' might be a more apposite word) are implied or assumed rather than argued through logically. For instance, he allows nonconscious pain in both humans and nonhumans but ignores the contrary possibility that both humans and nonhumans may also experience conscious pain in a similar way. Nor does he seem to consider the simpler possibility that both humans and nonhumans may *sometimes* experience nonconscious pain (perhaps due to shock, for instance) and *sometimes* (or often) experience pain consciously. Indeed, one could argue with equal

Essentially, 'first order' experiences refer to sensory experiences of which a being may be aware, but without the added capacity of 'second order' (or 'phenomenal') consciousness to enable a being to think about them.

⁵⁰ Peter Carruthers, 'Brute Experience', *The Journal Of Philosophy*, 86:5 (1989), 258-269 <<https://www.jstor.org/stable/2027110>> [Accessed 22 April 2019].

⁵¹ Ibid., p.258.

⁵² Ibid., pp.259-60.

⁵³ Ibid., pp.266-67.

justification (or lack thereof) that *only humans* can have non-conscious experiences. So why do humans drop out of the equation when the same principles could equally be applied to them?

Colin Allen's paper, cited earlier, refers to empirical studies relating to evolutionary continuity and neural mechanisms associated with animal behaviour, which challenge the notion that one can be 'detached' from acute pain or experience it unconsciously in the way that Carruthers seems to assume. Interestingly, Allen also points to the lack of evidence for similarities between animal behaviour and humans' putative cases of nonconscious experiences (including blindsight). On the basis of the evidence, pain seems to be more to do with learning and adaptation rather than being a biological 'alarm bell'.⁵⁴

Likewise, Scully dismisses Carruthers' idea of nonconscious states in animals:

The whole purpose of fear and pain [is] to alert our defensive mechanisms. On what rational or scientific grounds are we to believe that the immediate experience of their physical response is not precisely the same in animals as in us? How would fear and pain operate if they were not dramatically distinguishable from the creatures' normal state?⁵⁵

We know that rats, birds, fish and other vertebrates learn to avoid electric shock, and that - for instance - toads stung by bees avoid bees.⁵⁶ As Dunayer justly asks, 'Why would nonhumans take preventative action unless they experience pain? How could they learn and remember if stings and shocks didn't involve conscious experience?'.⁵⁷

On balance, Carruthers' account rests on little more than prejudicial assumptions about animals' lack of conscious awareness. He assumes that which he would prove; his argument, as Scully points out, is basically circular; he tries to establish that animals do not experience conscious pain but, in the attempt, 'hasn't proved that animals are unconscious, but only that animals are not verbal or philosophical'.⁵⁸

Peter Harrison

Some of the sceptical principles assumed by Carruthers also appear in the complementary account given by Peter Harrison. For Harrison, however, conscious pain is something exceptional, and there have to be special reasons for

⁵⁴ Allen, 'Animal Pain', p.636. I regret that there is not enough space here to give Allen's account the detailed comment that it deserves.

⁵⁵ Scully, *Dominion*, p.226.

⁵⁶ Dunayer, *Speciesism*, p.21.

⁵⁷ *Ibid.*, p.21.

⁵⁸ Scully, *Dominion*, p.224.

experiencing it; and in his account, only humans have the capacity for such experiences and 'conscious intent' - the ability freely to choose rational courses of action in response to such experiences (for instance, deliberately to choose a painful course of action or to bear pain, or knowingly risk harm to oneself if it will result in a better outcome);⁵⁹ for Harrison, consciously experiencing pain is bound up with humans' ability to deal flexibly with the complex practical and moral demands of everyday life.

However, there is ample evidence from research and anecdote that humans are far from unique in choosing to self-sacrifice or bear avoidable pain in order to help others. Rats, for instance, will risk their own lives and forgo food to save cage-mates trapped in flooded compartments from drowning;⁶⁰ rhesus monkeys refused to press a food-delivery lever for many days, risking starvation, rather than trigger electric shocks to other monkeys (in re-runs of the controversial Stanley Milgram 'obedience to authority' experiments).⁶¹ Thus, Harrison's key claim here is purely suppositious. Moreover, if humans are cognitively superior to other animals - better able to learn, foresee, plan, adapt, share information and so on – this would suggest that we are *less* likely to need the brutal overseer of physical pain to manage our negative learning experiences than other animals. As adults, we do not normally need to keep undergoing the basic chastisements of childhood to keep us on track. Why, then, as the supposed 'adults' of evolution, would we need to be so reliant on the crude proddings from our lower brain at all, let alone more so than other species?

While Harrison does not dispute that nonhuman beings 'react to noxious stimuli',⁶² or that they can learn to avoid, harmful events, he points out that this does not prove that they actually feel pain or are phenomenally conscious. And here, rather predictably, he uses the analogy of a programmed robot, which could react appropriately to various hazards – and even scream when 'hurt' – leading us to believe that it was able to feel pain.⁶³ Again, this echoes Descartes' notion of animals as clockwork toys or automata which fool us into thinking that their screams and cries when they are killed or injured are more than simply the noises of 'broken machinery'.

⁵⁹ Harrison, 'Do Animals Feel Pain?', pp.37-38.

⁶⁰ Referenced in various sources. See Evelyn B. Pluhar, *Beyond Prejudice: The Moral Significance Of Human And Nonhuman Animals* (Durham and London: Duke University Press, 1995), p.56. See also Amanda Pachniewska, 'Do Rats Have Empathy For Each Other?', *Animal Cognition* (16 June 2015) <<http://www.animalcognition.org/2015/06/16/rat-empathy/>> [Accessed 19 June 2021].

⁶¹ Referenced in various sources. See Pluhar, *Beyond Prejudice*, p.56. See also Dunayer, *Speciesism*, pp.26-30.

⁶² Harrison, 'Do Animals Feel Pain?', p.37.

⁶³ *Ibid.*, p.27.

Harrison assumes the Cartesian notion of a major capacity difference between humans and nonhumans. However, in taking up the baton from Descartes, whom he credits with providing ‘*epistemological* grounds for denying that animals feel pain’,⁶⁴ he repeats the same glaring error as his predecessor: for if nonhumans could in theory be robots of some kind, imitating the behaviour of living, sentient beings, there is no logical reason why the same could not be true of human beings. As Singer remarks in *Animal Liberation*:

In theory we *could* always be mistaken when we assume that other human beings feel pain. It is conceivable that one of our closest friends is really a cleverly constructed robot, controlled by a brilliant scientist so as to give all the signs of feeling pain, but really no more sensitive than any other machine.⁶⁵

For Descartes, a key litmus test was whether a human-looking machine could use and understand language – a capacity which he believed demonstrated humans to be *substantially* different from animals, (i.e., unlike us, they are both soulless and mindless), so it appears that he did at least consider this.⁶⁶ Perhaps he could be forgiven for being unable to imagine a machine so humanlike that it would fool us or even itself into thinking it was real, but modern and major advances in robotics, artificial intelligence (AI) and computer-generated imagery (CGI) bring this possibility ever closer, and today there are neither grounds nor excuse for bringing the tired ‘robots’ argument to bear against the apparent sentience of animals but not against the apparent sentience of human beings.

Similarly, when Harrison expands his argument that we can know nothing of the internal states of nonhuman animals on the basis of their external behaviour or physiological make-up, he again does not consider that this could equally be applied to human beings, and indeed insists that ‘our’ mental life is qualitatively different.⁶⁷ But to claim this is little more than an assumption that other people must be like us on the inside because they are like us on the outside. And this brings us back, again, to the classic ‘other minds’ problem. As Jeffrey Masson says, ‘Short of being another person, there is no way to know with certainty what another person is feeling, although few people, even philosophers, carry their solipsism this far’.⁶⁸

⁶⁴ Harrison, ‘Do Animals Feel Pain?’, p.34.

⁶⁵ Singer, *Animal Liberation*, p.10.

⁶⁶ See *Descartes: Key Philosophical Writings*, ed. by Enrique Chavez-Arviso, trans. by G. R. T. Ross (Wordsworth Classics Of World Literature, 1997), Part 5 (‘Discourse on the Method’), pp.109-10.

⁶⁷ Harrison, ‘Do Animals Feel Pain?’, p.27.

⁶⁸ Jeffrey Masson and Susan McCarthy, *When Elephants Weep: The Emotional Lives Of Animals* (London: Vintage, 1996), p.49.

This is echoed by Singer, when he says, ‘We cannot directly experience anyone else’s pain, whether that “anyone” is our best friend or a stray dog. Pain is a state of consciousness, a “mental event”, and as such it can never be observed’.⁶⁹

Harrison goes on to argue that even if nonhumans do possess the requisite ‘neural hardware’ associated with pain experiences (as many species do), this does not prove that those attributes necessarily enable the same kind of conscious pain experiences that occur in humans. To make the point he refers to birds’ lack of a visual cortex, which might suggest that they do not process visual information as we do (and may even experience the kind of ‘blindsight’ phenomenon cited earlier). And yet, from their behaviour, it is apparent that they can see (or ‘see’ as Harrison has it); therefore, we cannot rely on the presence of hardware as evidence of a particular sort of subjective experience.⁷⁰

This would seem to be a fair point, but Harrison, ironically, seems to be arguing against his own case, for it would be extremely difficult to explain the day-to-day survival of avians if they could ‘see’ but did not know what they were looking at.⁷¹ Birds, like any other species, need to be able to recognise and remember food sources, foes, friends and family and all kinds of other new information from an ever-changing environment, so it is wholly reasonable to infer that they can see consciously rather than ‘see’ blindly, or even ‘see feelingly’.⁷²

If it is possible to see without the aid of a visual cortex, it is credible that animals’ other senses are likewise not dependent on the ‘correct’ neural structures being in place. Ironically, again, one of Harrison’s own examples seems to support this idea. He cites the case of a young mathematician who (as a result of hydrocephalus as a child) had virtually no brain – apart from a very thin ‘skin’ around the inside of his skull. It seems that, somehow, this residual tissue accommodated all the normal functions of the brain in a way which, ‘confounds our understanding of the link between brain structure and consciousness’.⁷³ Thus, if full brain function is possible with (virtually) no brain, it may also be possible for full ‘pain function’ to occur even without the relevant neural structures. Moreover, one could reasonably suppose that creatures who *do* possess such structures are more, not less, likely to be capable of having such ‘full pain’ experiences. This, it seems to me, supports the argument for the *generalisation* of

⁶⁹ Singer, *Animal Liberation*, p.10.

⁷⁰ Harrison, ‘Do Animals Feel Pain?’, p.30.

⁷¹ It would be even harder to explain the pigeons in the ‘Skinner box’ experiments who learned to recognise and categorise human faces in photographs. See Donald R. Griffin, *Animal Minds: Beyond Cognition To Consciousness* (Chicago and London: University of Chicago Press, 2001), p.139.

⁷² William Shakespeare, *King Lear*, Act IV, Scene 2, 149. *The Illustrated Stratford Shakespeare* (London: Chancellor Press, 1987), p.855. In the play, the blinded Gloucester makes various remarks about the relationship between sensory perceptions and sightlessness.

⁷³ Harrison, ‘Do Animals Feel Pain?’, p.29.

the ability to experience pain – not for the *restriction* of that ability to one species and one species only, as Harrison does.

It is worth noting that we do not routinely doubt that animals can knowingly see, hear, smell, taste, and feel things through their senses as we do. We commonly acknowledge, for example, that dogs have a much more developed sense of smell than humans do; certain birds of prey have much sharper vision than ours, or that some species have much more acute hearing than ours. But if we accept that animals have and indeed consciously *use* such capacities, it is glaringly inconsistent to say that we cannot also credit them with the fundamental sensory reaction that manifests as feelings of pain.

'Pain mimicry'

Beyond even the suppositious and circular arguments offered by Carruthers and Harrison we encounter the bizarre notion of 'pain mimicry', which is credited to Stephen Budiansky. Essentially, as Scully notes, according to Budiansky, animals are 'hardwired' to behave in a way which creates an 'uncanny mimicry of thought and feeling that deceives us into thinking that they possess conscious life'.⁷⁴

This begs a whole range of questions. If nonhumans did not *actually* feel pain (and therefore had no reference point for it) it is hard to see how they would know how to 'act it out' (or try to hide it) in a way that corresponds realistically with *actual* feelings of pain. And what would be the purpose of this behaviour anyway? If it were to warn other animals (who also do not feel pain) those creatures would have no way of knowing what they were witnessing, or how to respond. If it were designed as a kind of survival ploy specifically to fool humans, it is highly implausible that it could have evolved in the first place, given that nonhumans preceded humans by many hundreds of millions of years.

By the same token, we are entitled to ask why and how a creature would 'mimic' pleasure. Consider, for instance, the famous Olds and Milner experiments in which rats were wired up so as to activate the pleasure centre of their brains via a lever. If they were not directly experiencing pleasure, it would be very difficult to explain why they would continue to 'self-administer' in this way in preference to all other activities, including eating and sex.⁷⁵ And if we concede that the rats were indeed experiencing pleasure – which is less crucial, evolutionarily speaking – there is no logical reason to suppose that they cannot also experience pain.

⁷⁴ Here, Scully references Budiansky's book, *If A Lion Could Talk: Animal Intelligence And The Evolution Of Consciousness* (New York: Free Press, 1998). Scully, *Dominion*, p.6 and p.198.

⁷⁵ Accounts of this famous experiment are widely available. See, for example, David Lipton, 'Olds & Milner, 1954: "Reward Centers" In The Brain And Lessons For Modern Neuroscience', *NeuWrite West* (10 June 2013) <<https://www.neuwritewest.org/blog/3733>> [Accessed 9 June 2021].

Furthermore, if 'painless' (and 'pleasureless') reaction to stimuli worked in all lower species, there would be no need for evolution suddenly to 'invent' *actual* pain (and pleasure) in humans to achieve the same result. If any given creature possessed the relevant neural infrastructure required to experience pain, it would make more practical sense for that creature simply to *have* that attribute rather than *pretend* to have it. A simpler and more parsimonious explanation, as Singer points out, is that humans and animals are experiencing the same thing – which obviates the need to invent other explanations such as mimicry.⁷⁶

Voltaire asked, semi-rhetorically, whether animals would really have all the organs of feeling and yet not feel.⁷⁷ But it seems to me that the notion that animals could have evolved to impersonate the pain response without being able to feel pain is as absurd as the idea of a car manufacturer producing a new model of car, functionally similar in all relevant respects to any other motor vehicle on the road, except that it was not intended to be driven.

Aside from the obvious question of why such a pointless thing would be created in the first place, we would also want to know *how* it would be possible to create from scratch a replica or model so realistic that it could be mistaken for an actual machine – with all its associated design and engineering solutions – which had not even been invented yet.

Moreover, we would also want to ask in what way the car was different from the thing it was supposed to be or to represent. If all the functional components were in place, why would they not be useable? What would actually prevent one from simply filling it up with petrol and driving it away like any normal car?

Matthew Scully makes various criticisms of the 'pain mimicry' position, which in my view could equally be applied to pain scepticism generally. As was noted earlier, the arguments are basically circular, characterised by 'applying a general proposition to particular facts – and admitting of no counter evidence'.⁷⁸ He further remarks (again, in relation to Budiansky):

Notice that none of the statements are even conclusions at all, subject to the rules of rational debate and empirical demonstration. They are prohibitions on the assumption that any final conclusions are possible. They're not saying we don't know. They're saying we can't know. Ever.⁷⁹

Only on that latter point would I disagree with Scully's criticism: it seems to me that the sceptics are saying we cannot know that animals *do* feel pain; but this in

⁷⁶ Singer, *Animal Liberation*, p.12.

⁷⁷ Quoted in (*inter alia*) Midgley, *Animals And Why They Matter*, p.140.

⁷⁸ Scully, *Dominion*, p.218.

⁷⁹ *Ibid.*, pp.214-15.

itself assumes by default the character of persuasive evidence for the contrary claim – that they do not feel pain. In other words, the sceptics are apparently claiming that (in relation to animal pain) the putative ‘absence of evidence’ really is evidence of absence.

‘Mere pain’ versus real suffering

Scully notes that Budiansky also coined the phrase ‘mere pain’, to indicate that it is not significant like *our* pain; our pain, this implies, is laden with meaning in some way; it is not a mere survival reflex to physical damage to the organism.⁸⁰ And what this also seems to imply, moreover, is that, even if sceptics had to concede that nonhumans can experience pain, they could still argue that it could not be as bad or as real as ‘our’ pain, nor *matter* as much, if at all.

Certainly, we can talk sensibly about the differences in effect of acute and chronic pain on an organism over time, but this hardly entails that something extra needs to be added on to pain to elevate it into something worthy of human experience. This, again, relates back to the purely suppositious and speciesist notion that just as there ‘must be’ something special or exceptional about all human experience (in comparison with other animals) there must also be something special or exceptional about human pain, which is superior to whatever it is that is experienced by other animals. Thus, as they are ‘mere animals’, then they probably experience ‘mere pain’.

This brings us to the notion of a qualitative distinction between pain and suffering. For Daniel Dennett, suffering can only occur when one is experiencing pain in a conscious way, knowing oneself to be the experiencer of that pain, and therefore having feelings *about* being in that condition of pain.⁸¹ A similar idea is expressed by C. S. Lewis: ‘Animals experience “a succession of perceptions” but not “a perception of succession” to confer meaning upon suffering’.⁸² This makes a nice epigram, but this does not make it true.

Others have rightly demanded to know on what grounds we imagine that *our* suffering is worse than, or more important than, the suffering experienced by nonhuman beings.⁸³ Scully derides the idea that humans necessarily ascribe ‘deep meaning’ to ordinary painful experiences.⁸⁴ He also questions whether humans

⁸⁰ Scully, *Dominion*, p.198.

⁸¹ Daniel Dennett, *Brainchildren: Essays On Designing Minds* (Cambridge Mass: MIT Press, 1998), referenced in Akhtar, ‘Animal Pain And Welfare’, in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.497.

⁸² C. S. Lewis, *The Problem Of Pain* (New York: Macmillan, 1962), quoted in Scully, *Dominion*, p.7.

⁸³ Drummond, *The Rights Of Animals*, Chapter 9, Section, 6, Para. 44.

⁸⁴ Scully, *Dominion*, pp.198-99.

really experience suffering on such a ‘grand, Shakespearian scale’ as the anthropocentric account seems to suggest. Even for us, pain simply *hurts*.⁸⁵

Lewis’s epigram above links into the idea that ‘personal continuity’ is a condition for suffering to be considered as such, which is often denied to nonhumans. But on the basis of Regan’s account of subjects of a life (see Chapter 1), we need not suppose that nonhumans do not know themselves to be the same experiencing entity over time. To survive in the wild, an animal needs to know, for example, that the predator that nearly caught it yesterday is a threat today and may try again today or tomorrow. And if it can know this much, it is also equipped to know that the pain it experienced yesterday is still here today, and may also return tomorrow, even if it does not know what ‘today’ or ‘tomorrow’ means. It need not have a concept of, or belief about pain in order to experience it as an immediate sensory reaction; and repeated sensory reactions can also form part of the pattern of a being’s overall experiential continuum, like any other kind of life event.

While we commonly distinguish between the two terms - to indicate, broadly, (a) the direct reaction to noxious stimuli and (b) the associated mental experience of pain (such as shock and trauma)⁸⁶ this notional *categorical* separation of pain and suffering strikes me as suppositious and artificial. If nonhumans *do* consciously feel pain – that what they experience *hurts* them - then there are no grounds to suppose that they are not aware that they are suffering that hurt. Indeed, to try to express this idea results in a nonsensical tautology, along the lines of, ‘There is hurting, and I also know that it is hurting me’: for if the pain hurts in a way that this entity can feel it hurting, the experience itself is what is known. If a being is conscious enough to experience pain, it is conscious enough to experience suffering.

What is pain really like for animals?

John Webster, Professor of Animal Husbandry at Bristol University, considers that the capacity for suffering is ‘the inevitable consequence of the evolution of sentience’ and that all sentient animals have this capacity, but at the same time we are not entitled to assume that the animals closest to humans (in capacity)

⁸⁵ Scully, *Dominion*, p.7.

⁸⁶ Andrew Linzey, for instance, notes that severe or extended pain is sometimes classed as a form of suffering. He also considers it reasonable to suppose that mammals and birds can experience both pain and suffering, but leaves the question open in relation to other classes of animals. Andrew Linzey, ‘Why Animal Suffering Matters Morally’ (chapter), in Andrew Linzey, *Why Animal Suffering Matters: Philosophy, Theology, And Practical Ethics* (Oxford and New York: Oxford University Press, 2009), p.10. [Oxford Scholarship Online, 2014] <<https://doi.org/10.1093/acprof:oso/9780199351848.003.0002>>.

necessarily suffer more than the others.⁸⁷ Likewise, Andrew Linzey makes the point that animals' suffering is as important to them as ours is to us – but does not need to be exactly the same as ours.⁸⁸

However, even if we can know that nonhuman animals really do experience pain, the bare biology does not give us much of a clue as to what that pain is *like* for them. Linzey comments that many people have little idea of the true sensitivity of animals and that our dominant thought systems 'keep us from grasping the immensity of their suffering and appreciating its moral significance'.⁸⁹ Drummond also considers that, 'We do not sufficiently consider that brute animals have as keen sensations as man himself', and indeed considers that no person possessed of common understanding could reasonably imagine that beating, cutting and burning them does not hurt.⁹⁰

Other commentators referred to earlier seem to agree too. Singer, for instance, cites a scientific volume on pain which avers, 'Every particle of factual evidence supports the contention that the higher mammalian vertebrates experience pain sensations at least as acute as our own. To say that they feel less because they are lower animals is an absurdity'.⁹¹ And, for Dunayer, 'The claim that only humans experience pain, or that all humans are more sensitive to pain than all nonhumans, has no scientific basis'.⁹²

We can reasonably infer from their reactions that their pain hurts them, but is it true that, 'the poor beetle, that we tread upon/In corporeal sufferance finds a pang as great/As when a giant dies',⁹³ or are we simply projecting what we think of as pain onto them?

I think Masson makes a good point when he says, 'Animals suffer. Can we, should we, measure it, compare it with our own? Why should the suffering have to be like ours? [...] Isn't the fact that they suffer at all enough?'.⁹⁴ However, it is still an interesting and morally relevant question; and we do at least have *some* idea of the degree of suffering they experience, thanks to various neurological studies

⁸⁷ John Webster, 'Ideals And Realities: What Do We Owe To Farm Animals?', in Turner and D'Silva, eds, *Animals, Ethics And Trade: The Challenge Of Animal Sentience* (London; Sterling VA: Earthscan, 2006), p.152.

⁸⁸ Andrew Linzey, 'What Prevents Us From Recognising Animal Sentience?', in *Animals, Ethics And Trade*, ed. by Turner and D'Silva, p.74.

⁸⁹ Linzey, 'Why Animal Suffering Matters Morally', p.36.

⁹⁰ William Hamilton Drummond, *The Rights Of Animals*, Chapter 8, para. 18.

⁹¹ Richard Sarjeant, *The Spectrum Of Pain* (London: Hart Davis, 1969), quoted by Singer, *Animal Liberation*, p.12.

⁹² Dunayer, *Speciesism*, p.21.

⁹³ William Shakespeare, *Measure For Measure*, Act III, Scene 1, 76-77. *The Illustrated Stratford Shakespeare* (London: Chancellor Press, 1987), p.87.

⁹⁴ Jeffrey Masson and Susan McCarthy, *When Elephants Weep: The Emotional Lives Of Animals* (London: Vintage, 1996), p.216.

which have been carried out. For instance, John Webster (a leading world authority on the physiology of pain in animals) considers that there is 'clear physiological evidence that the intensity of pain sensation in cows and sheep and other animals is similar to that in man'. He also disagrees that some animals learn to bear or not feel pain so much over time because 'chronic pain causes changes in the processing of pain signals in the nervous system which amplify the sensation from the damaged site. Far from adapting, the sensation gets worse with time'.⁹⁵

Lameness in cattle (which affects about 60 per cent of cows) is a case in point, which Webster describes as having all your fingers on both hands caught hard in a doorjamb, and then having to walk on your fingertips. This is what we are seeing evidence of when we see cows limping. There is also increasing evidence that lame cows show signs of hyperalgesia or increased sensitivity to pain. Again, in other words, the sensation gets worse over time.⁹⁶

Could pain sometimes be worse for them?

The kind of neurological evidence cited above invites the logical possibility that certain nonhumans may sometimes feel pain more intensely than humans. Looking at the literal, neurological data, for example, provides evidence that, like mammals, fish not only evidently feel physical pain, but may be *more* sensitive to pain than humans. That is to say, the nerves in fish skin react at a lower pressure than human skin – which has been compared to the sensitivity of the human cornea, and which suggests that fish being handled experience something like pressure on one's eyeball.⁹⁷

However, various commentators have considered this question more in relation to its psychological aspects: that is, whether the faculty of reason makes humans suffer more than animals; whether human cognitive sophistication could make us suffer more (because we can know and fear what is going to happen to us).⁹⁸ But perhaps in some cases, *not* knowing is what makes it worse for the animals, depending on the situation.⁹⁹ Thus, it seems likely that a human being might suffer more than a nonhuman in some situations and vice versa.¹⁰⁰ However, for

⁹⁵ John Webster, 'Animals And Husbandry', Annual Lecture Of The Royal Agricultural Society Of England, 1997, quoted in Masson, *The Pig Who Sang To The Moon*, p.115.

⁹⁶ John Webster, *Animal Welfare: A Cool Eye Towards Eden* (Oxford: Blackwell, 1995), quoted in Masson, *Ibid.*, pp.151-52.

⁹⁷ Lynne Sneddon, Research Fellow, Animal Biology, University of Liverpool: private email to Dunayer, 2003, cited by Dunayer, *Speciesism*, p.20.

⁹⁸ Sahar Akhtar, 'Animal Pain And Welfare', in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.499.

⁹⁹ Andrew Linzey, 'Why Animal Suffering Matters Morally', pp.17-18.

¹⁰⁰ Robert Garner, *A Theory Of Justice For Animals: Animal Rights In A Nonideal World* (Oxford and New York: Oxford University Press, 2013), p.125.

Sahar Akhtar, the lack of knowledge may mean that animals can be doubly disadvantaged: they do not understand what is happening, nor when or if it will end. They have no psychological relief from pain, nor any way of 'discounting' it, in anticipation of future relief from it.¹⁰¹ They are effectively trapped in the suffering until it ends; they have not the means to transcend it, but they still have to *endure* it.¹⁰²

As Akhtar also suggests, the pain may form a proportionally greater part of their total welfare than ours because their overall welfare is (or their interests are) relatively much more limited in relation to ours. Having greater or more complex interests, it could be said, makes the pain less significant by comparison.¹⁰³ And arguably, the more circumscribed my horizons of time, the greater, I would contend, would be the proportion of that period occupied by what I perceive to be the present moment when the suffering is happening.

In this regard, Dunayer describes pigs trapped in farrowing crates. At first, they struggle and fight to get free before eventually giving up and becoming listless and apathetic. Again, they may suffer *more* than humans would in such situations because they cannot understand or rationalise what is happening to them.¹⁰⁴ One can also think of the appalling cruelty to *foie gras* ducks and geese and the evident, ongoing pain and distress that they exhibit in their demeanour: they are listless and inert; they have no room to preen and they often have serious injuries and infections from the *gavage* they endure every day. Perhaps they do not understand what is happening to them, but every day their pain is renewed with every force-feed, and like any creature capable of anticipation of future events, they often try to get away from workers when they come to cram them to bursting point once again.¹⁰⁵

The example above confirms Scully's point that animals show that they know what is coming to them:

They can certainly anticipate their pain, as mistreated animals cower and whimper at the mere appearance of their tormentor. [...] If they can anticipate pain, storing in their minds some image or feeling of past

¹⁰¹ Akhtar, 'Animal Pain And Welfare', pp.506-08.

¹⁰² Scully, *Dominion*, p.8.

¹⁰³ Akhtar, 'Animal Pain And Welfare', p.500.

¹⁰⁴ Dunayer, *Speciesism*, p.22. Farrowing crates are birthing cages for pigs, in which they cannot sit up, stretch out or turn over, supposedly to prevent them from crushing their new-born young when they are suckling.

¹⁰⁵ For a graphic (and illustrated) account of such cruelty, see 'Foie Gras: Cruelty To Ducks And Geese', *PeTA* <<https://www.peta.org/issues/animals-used-for-food/factory-farming/ducks-geese/foie-gras/>> [Accessed 19 May 2021]. See also Ingrid Newkirk, '5 Big Fat Lies About Fatty Liver (Foie Gras)', *Huffington Post* (16 January 2015) <https://www.huffpost.com/entry/5-big-fat-lies-about-fatt_b_6482104> [Accessed 19 May 2021].

experiences, why can't we suppose that the same faculty of memory allows them to reflect on past experiences?¹⁰⁶

It is entirely plausible that nonhumans can both remember and anticipate pain experiences over time; they can not only feel pain or distress but *fear* it and even relive the experience. For example, young elephants in Kenyan 'orphanages' who have seen their mothers and other family members butchered by poachers wake up screaming in the night.¹⁰⁷ And, arguably, the fact that animals dream provides evidence of an inner life.¹⁰⁸ Rats (whom we also know can dream) learn to fear receiving an electric shock;¹⁰⁹ and if they can dream of being trapped in a maze, as has been demonstrated through laboratory experiments,¹¹⁰ it is plausible that they can also dream of being hurt as well.

Another important consideration is that some animals are inherently more sensitive than others. Many prey animals such as rabbits will run away from the slightest hint of danger; for such harmless and defenceless creatures, flight is their only defence. Timidity is their natural state; so much so that even a sudden shock can kill them. Special vulnerabilities of this kind, too, are an important and morally relevant consideration. (This issue will be explored in more detail in Chapter 4.)

Pain and language

It is evident that nonhuman animals cannot express their pain in words as we can.¹¹¹ (Indeed, Masson considers that this is the *only* criterion they fail to meet for feeling physical pain in relation to what some suppose to be necessary conditions for experiencing phenomenal states.)¹¹² It is unsurprising, then, that pain sceptics and deniers (again on the back of Descartes) have also tried to dismiss the reality of nonhumans' pain experiences by claiming that our experience of pain depends on our possession of language. Not only does it mean (supposedly) that we can be fully conscious of the pain we experience ourselves, but it also means that we can (albeit indirectly) share our pain and share in the pain of others and, in so doing, have confidence that their pain is akin to our own.

¹⁰⁶ Scully, *Dominion*, p.224.

¹⁰⁷ Masson and McCarthy, *When Elephants Weep*, p.60.

¹⁰⁸ Scully, *Dominion*, p.8.

¹⁰⁹ Masson and McCarthy, *When Elephants Weep*, p.60.

¹¹⁰ Virginia Morell, *Animal Wise: How We Know Animals Think And Feel* (New York: Broadway Books, 2013), p.127.

¹¹¹ Singer, *Animal Liberation*, p.13.

¹¹² Masson and McCarthy, *When Elephants Weep*, p.42.

However, this is not particularly relevant to what goes on with us when we – or nonhumans – experience pain. Language is not what makes the pain happen. As Singer points out, ‘Language may be necessary for abstract thought, at some level anyway; but states like pain are more primitive, and have nothing to do with language’.¹¹³ And, as he goes on to say, ‘The statement “I am in pain” may be one piece of evidence that the speaker is in pain, but not the only possible evidence – indeed, people can lie about it. Babies do not use language – do we therefore deny that they can suffer?’.¹¹⁴

There is no reason, then, to believe a person who says, ‘You are hurting me’ but not to believe a creature screaming in obvious pain. We do not need language to understand what animals are trying to convey with their shrieks and cries when hurt.¹¹⁵ We can even recognise pain and suffering in the eyes and demeanour of an animal, along with repeated patterns in their body-language and gestures.¹¹⁶ And, likewise, other animals too (such as dogs) can recognise and respond to signs of distress in humans. From this it seems plausible that at least some nonhumans know what such overt distress signals actually mean for the one who is suffering. If pain had no meaning for at least those animals, how would they be motivated to act in this way?

Moreover, and perhaps most importantly, as Scully remarks: ‘A still more glaring flaw in the argument is that when we human beings, with all our linguistic and conceptual endowments, really are in grave physical pain, trauma or danger, we do *not* use language to express it. We just cry and scream and convulse and writhe and moan, like animals’.¹¹⁷

The purpose of screaming

Researchers have tried to account for the ubiquitous phenomenon of screaming, which occurs when both humans and nonhumans experience pain and injury. Some think that this is a kind of hardwired, functional response, and initially this seems plausible. John Webster, for instance, notes that screaming tends to be more common in animals that are born in litters, such as puppies and rabbits. Screaming when caught signals to the others to escape and may even alarm or

¹¹³ Singer, *Animal Liberation*, pp.13-14.

¹¹⁴ Ibid., pp.14-15.

¹¹⁵ Scully, *Dominion*, p.8.

¹¹⁶ Masson and McCarthy, *When Elephants Weep*, p.49.

¹¹⁷ Scully, *Dominion*, p.199.

scare off the predator. Other animals such as cows and sheep are ‘more stoical’ and try not to reveal how much pain they are in.¹¹⁸

However, this account leaves much unexplained, and there are good reasons to question the idea that animals mindlessly scream to warn others like a siren or as a diversionary tactic:

When the ground squirrel continues shrieking after it’s too late, when the others are safely back in the burrow and he is all alone being devoured by the hawk, what’s the diversionary tactic there? Why do any animals scream when they are wounded or killed, even when those screams can have no possible utility? Why do we scream, and why has evolution designed us to consciously experience our pain, but not them? Why are some animals when they are in extreme danger, like lab mice being fed to snakes, unable to make any sound at all, paralyzed, as we say of ourselves at such moments, by the horror of it?¹¹⁹

The upshot of Scully’s questions here is that, in the light of neurological and behavioural parallels between species, it makes more sense to believe that pain serves precisely the same function in all animals. And it seems to me that the true explanation is that screaming is an evolutionary mechanism with multiple functions: it *may* include the benefit of scaring off an attacker or warning others of danger, but according to some sources, screaming releases endorphins into the brain and helps to relieve pain or make it more bearable by ‘drowning out’ or distracting one from the pain. Interestingly, experiments have shown that swearing when in pain has similar and measurable effect.¹²⁰ But if this is the case, screaming would only make sense if one were actually feeling pain; thus, one could reasonably infer that any animal screaming while being hurt is also instinctively managing its pain or self-comforting in this way.

Goats scream and some die from shock when being dehorned. Foxes on fur farms (when electrocuted) scream before they die of cardiac arrest.¹²¹ It has even been demonstrated that piglets scream at a higher pitch than usual when they are being castrated.¹²² At some instinctive, intuitive level, most of us know what this

¹¹⁸ John Webster, *Animal Welfare: A Cool Eye Towards Eden* (Oxford: Blackwell, 1995), quoted in Masson, *The Pig Who Sang To The Moon*, p.151.

¹¹⁹ Scully, *Dominion*, pp.211-12

¹²⁰ See, for example, James Cunningham, ‘Why Do We Scream Out In Pain?’, *Science & Technology Journal* (13 March 2012) <<https://scienceandtechnologyjournal.wordpress.com/2012/03/13/why-do-we-scream-out-in-pain/>> [Accessed 14 June 2021]. See also Carolyn Gregore, ‘The Science Behind Why You Say “Ow” When You’re In Pain’, *Huffington Post* (3 February 2015) <https://www.huffingtonpost.co.uk/entry/why-you-say-ouch-pain_n_6594170?ri18n=true> [Accessed 27 June 2021].

¹²¹ Dunayer, *Speciesism*, p.21.

¹²² Peter Sandoe, Stine B. Christiansen and Bjorn Forkman, ‘Animal Welfare: What Is The Role Of Science?’, in *Animals, Ethics And Trade*, ed. by Turner and D’Silva, p.48.

means, hence we find the sound of animals screaming deeply upsetting.¹²³ In Masson's vivid account, 'The crying of the pigs being slaughtered is horrible. People report that they sound like human screams. The pigs are communicating. They are speaking of their terrible fear'.¹²⁴ Even hardened slaughter workers can be picky about which animals they will slaughter – lambs and goats scream and cry like babies or young children. Some have trouble with calves, which trustingly suck their fingers before the knife is stuck into them.¹²⁵

However, silence should not be taken to indicate an absence of pain: indeed, pain may be so intense that it makes it impossible to cry out.¹²⁶ On this basis I think we need not accept (for example) Harrison's contention that wildebeest dying in silence after being taken by lions is an instinctive response to prevent others being attracted to the sound.¹²⁷ It does not seem to make sense for herd animals to run *towards* unusual or alarming sounds that might indicate danger rather than away from them; indeed, it would be likely to act as a dinner gong for other predators – which would not help the wildebeest. On the other hand, if screaming is supposedly hardwired to warn other animals that 'I am being eaten by a predator – run for your lives!', it would not make sense for an animal to remain silent. Sceptics cannot have it both ways.

For comparison, it is interesting to consider Livingstone's famous account of being attacked and badly injured by a lion before his colleagues were able to rescue him:

Growling horribly close to my ear, he shook me as a terrier dog does a rat. The shock produced a stupor similar to that which seems to be felt by a mouse after the first shake of the cat. It caused a sort of dreaminess, in which there was no sense of pain nor feeling of terror, though quite conscious of all that was happening. It was like what patients partially under the influence of chloroform describe, who see all the operation, but feel not the knife. [...] This singular condition was not the result of any mental process. The shake annihilated fear, and allowed no sense of horror in looking round at the beast.¹²⁸

The numbing effects of shock (often described by accident or attack survivors) are well known today, but this does not then mean that people do not feel extreme pain on other occasions (being tortured or undergoing major surgery while fully

¹²³ See accounts cited by Drummond in footnote 32.

¹²⁴ Masson and McCarthy, *When Elephants Weep*, p.218.

¹²⁵ Charles Patterson, *Eternal Treblinka: Our Treatment Of Animals And The Holocaust* (New York: Lantern Books, 2002), pp.116-17.

¹²⁶ Here, Drummond seems to anticipate modern neurological accounts. Drummond, *The Rights Of Animals*, Chapter 9, Section 7, para. 12.

¹²⁷ Harrison, 'Do Animals Feel Pain?', p.33.

¹²⁸ Quoted in Jack Le Moine, 'Lion Attacks Livingstone', *History Web* (24 October 2014) <<https://historyweblog.com/2014/10/lion-attacks-livingstone/>> [Accessed 30 May 2021].

conscious, for instance). And this also raises a further contention against the pain sceptics; for if we were naïve alien observers who had only real-life examples of humans calmly and silently enduring horrific and fatal injuries, we would not on that basis be entitled to assume that humans in general are insensible to pain. Similarly, we are not entitled to make that same conclusion with regard to nonhumans.

The moral implications of pain: non-harm, nonmaleficence and the Golden Rule

The point was made earlier that knowing (or holding the reasonable belief) that other sentient beings suffer as we do ourselves entails the moral duty not to cause such suffering, and indeed this is enshrined in the most ancient religious and moral systems in the world. In the Eastern tradition we find the central principle of *Ahimsa* (roughly 'dynamic non-harm'). In the ancient Jewish tradition, too, we find the principle of *tsha'ar ba'alei chaim*, which entails a similar rule against causing suffering to living beings.¹²⁹ In the West, also, nonmaleficence - abstaining from harming others - is a primary moral principle and is enshrined in law in various ways.¹³⁰

Commonly, we know this as the Golden Rule - 'treat others as you would wish them to treat you' - which Midgley believes can and should be applied to nonhumans.¹³¹ This effectively rules out anything causing pain or suffering not in the interests of the person or being concerned, or that denies basic needs. As a principle, nothing about it confines its application to human beings only.¹³² For Schopenhauer in particular, this is the essential virtue of 'boundless compassion for all living things':¹³³ an 'instinctive principle' which he characterises in various ways as the only truly moral motive, incentive, or guarantee of morality.¹³⁴ Through it, we feel another's pain as one's own; it rests on a 'direct and instinctive participation in the suffering of others'.¹³⁵

¹²⁹ Bernard E. Rollin, 'Animal Pain: What It Is And Why It Matters', *The Journal Of Ethics*, 15:4 (2011), 425-437 (p.433) <<https://doi.org/10.1007/s10892-010-9090-y>>.

¹³⁰ Tom L. Beauchamp, 'Rights Theory And Animal Rights', in *The Oxford Handbook of Animal Ethics*, ed. by Beauchamp and Frey, p.213.

¹³¹ Midgley, *Animals And Why They Matter*, p.91.

¹³² Beauchamp, 'Rights Theory', in *The Oxford Handbook of Animal Ethics*, ed. by Beauchamp and Frey, p.214.

¹³³ Arthur Schopenhauer, *The Basis Of Morality*, tr. by E. F. J. Payne (Jovian Press, 2017), Part III, Chapter 8, para. 5. Kindle ebook.

¹³⁴ Schopenhauer repeats this idea in numerous similar phrases which I have tried to encapsulate here. For full context see Schopenhauer, *The Basis Of Morality*, Part III, Chapters 7 and 8.

¹³⁵ Ibid., Part III, Chapter 7, Section 1, para. 2.

Schopenhauer repeatedly stresses this point in relation to animals and describes the idea that they have no moral significance as 'the barbarism of the West'. He also derides what he calls the European system of ethics, which 'denies the eternal reality within every animal', and other attempts to deny their cognitive capacities, such as a sense of self.¹³⁶

The moral implications of pain denial: exploiting the disbenefit of the doubt

Most troubling in the pain sceptics' position is that if animals do not experience pain consciously, they do not suffer and therefore we need not be morally concerned about causing it. (Again, this is derived from Descartes' similar contentions.) While Carruthers and Harrison do not claim outright that they have *proved* that animals do not feel pain, the confidence with which they make this particular point could lead one to think that they have indeed demonstrated the truth of their case.¹³⁷

Others have also expressed their concern at the truly 'ghastly implications' of the pain sceptics' position:¹³⁸ essentially, if there is no such thing as conscious pain in animals, there can be no such thing as cruelty to animals.¹³⁹ Indeed, both Carruthers and Harrison go further still in their own account: not only do we not need to care about hurting them but we are actually *wrong* to care about animal suffering on farms, slaughterhouses and so on - a tendency which Carruthers sees as a kind of moral weakness.¹⁴⁰

In other words, if we buy into certain sceptics' accounts, the scant protection allotted to nonhumans in the animal exploitation industries is already too much: we ought to be doing even less, or indeed *nothing whatsoever*, to try to protect nonhuman beings from the pain and suffering that we cause them in the course of exploiting them as we commonly do. We should not even be wasting our time thinking about it. After all, on the sceptics' account, even if they have pain responses, they cannot *feel* the pain.

The moral implications of such patently repugnant views are enormous; for, after Descartes and, latterly, the behaviourist school of psychology, it is historically all too evident that many of those who exploit animals (and support such

¹³⁶ Again, I have tried to compress some of Schopenhauer's sometimes repetitive ideas. See *The Basis Of Morality*, Part III, Chapter 8, paras 9 and 10; and Part II, Chapter VI, para. 1.

¹³⁷ See Carruthers, 'Brute Experience', p.268; and Harrison, 'Do Animals Feel Pain?', p.39.

¹³⁸ Scully, *Dominion*, pp.234-35.

¹³⁹ *Ibid.*, p.232.

¹⁴⁰ Carruthers, 'Brute Experience', pp.268-69.

exploitation as consumers) are already content to believe and act on such pronouncements. As Jeffrey Masson observes:

Animals' presumed lack of feeling has provided a major excuse for treating them badly. If they have no feelings, humans need not respect those feelings or them. This has become so extreme that animals were long regarded as unable to feel pain, physical or emotional.¹⁴¹

As Masson goes on to say: 'The basic idea seems to be that if something does not feel pain in the way a human feels pain, it is permissible to hurt it. [...] The illusion of differences is maintained out of fear that seeing similarity will create an obligation to accord respect and perhaps even equality'.¹⁴² And, by extension, if animals can suffer in the same way that humans can, 'the admission of cruelty would be implicit'.¹⁴³

The fact that even Carruthers and Harrison seem to recognise this point themselves highlights the true moral significance of the possession or non-possession of this crucial capacity;¹⁴⁴ by making the denial of conscious pain so central to their position they are *ipso facto* acknowledging the opposite: that is to say, if animals *do* feel pain, then what we do to them is morally problematic; the fact of animal pain is a moral barrier to our treating them as we currently do.

Let us not forget, however, that the pain sceptics and deniers have neither substantiated nor proved their case; they are simply assuming it to be true by default. Thus, as it is a morally important matter we should, as far as possible, give animals the benefit of the doubt and treat them as if they are sentient.¹⁴⁵ Indeed, one could further argue that it is morally necessary to abstain from harming or destroying any living organism whose sentience has not been expressly ruled out by science, and unless it is utterly unavoidable.

¹⁴¹ Masson and McCarthy, *When Elephants Weep*, p.42. One could cite any number of folk myths about animals not feeling pain, such as the quick 'nip in the neck' that supposedly kills foxes when they are caught by dogs; the notion that fish do not feel pain when impaled on the hook; that lobsters and crabs are too primitive to feel pain when boiled alive; or that a cow feels nothing worse than a paper-cut as its carotid or jugular vein is severed.

This 'clash between science and common sense' led to common practices such as baby piglets being castrated without pain relief; similarly, surgery was routinely carried out on human babies using only paralytics, not anaesthetics, in the belief that they did not feel pain, until the 1980s. See Sandoe, and others, 'Animal Welfare: What Is The Role Of Science?', in *Animals, Ethics And Trade*, ed. by Turner and D'Silva, pp.48-49. See also Masson and McCarthy, *When Elephants Weep*, p.43.

¹⁴² Masson and McCarthy, *When Elephants Weep*, p.216.

¹⁴³ Ibid., p.216.

¹⁴⁴ See Harrison, 'Do Animals Feel Pain?', p.25; and Carruthers, 'Brute Experience', p.269.

¹⁴⁵ Jane Goodall, 'The Sentience Of Chimpanzees And Other Animals', in *Animals, Ethics And Trade*, ed. by Turner and D'Silva, p.7.

After all, what *need* is there for humans deliberately to harm any species of animal at all? On what grounds are we entitled even to take the *risk* of causing suffering to a potentially sentient, self-aware organism? We would not, for instance, consider that a person willing to risk others' lives by driving home while drunk was morally (or legally) vindicated on the grounds that they did not *actually* injure or kill anybody on this or that occasion; the fact is, they were willing to take that risk – in effect putting their most trivial interests over and above the most vital interests of others.

Clearly, pain denial is not a morally supportable standpoint, whether the others concerned are human or nonhuman. If we harm other sentient beings without an exceptional reason we have no right; if we harm them deliberately, or avoidably, we do a great wrong; if we cause such harms without caring, we can no longer consider ourselves moral beings.

While it is agreed that animal pain cannot at present be finally, incontrovertibly proved, there are sound evidential, biological, evolutionary and logical reasons which - when taken in concert – make it wholly reasonable to believe that nonhuman beings experience pain and suffer when they are harmed. In the case of mammals, birds, fish, reptiles and other vertebrates, it is beyond all reasonable doubt; in the case of other animals such as invertebrates with brains and nervous systems, (including insects and crustaceans), the evidence for pain is still very strong; in the case of other simpler creatures with nervous systems of some kind, there seems to be sufficient evidence for pain to oblige us to treat them as sentient beings by default. Contrariwise, the sceptics have provided no substantial reason to believe that pain is unique or special to humans; nor do we have any reason, nearly 400 years on, to accept any reprised version of Descartes' presumptive and prejudicial notion that nonhumans are merely mindless automata and that their cries are simply the noises of 'broken machinery'.¹⁴⁶ What we now know of the true sophistication of animal cognition (which we will discuss further in the next chapter) not only directly contradicts Descartes' presumptuous and pre-scientific observations in this regard, but renders those views largely irrelevant.

Ultimately, the pain sceptics' case rests not on positive evidence but on the implicit supposition that a lack of absolute proof constitutes grounds to conclude that the opposite is true. It is characterised by a form of intransigent, extreme and dogmatic doubt that rejects perfectly good evidence to the contrary, and in exchange tells us nothing. It goes beyond reasonable doubt into the territory of *unreasonable* doubt. For pain sceptics, animal pain cannot be countenanced as a

¹⁴⁶ Scully, *Dominion*, p.295. This comment by Descartes refers to his letter to Henry More, dated 5 February 1649. Referenced in Singer, *Animal Liberation*, p.282.

reality because, by their own admission, it entails moral responsibility towards nonhumans; but the onus is nevertheless upon them to *prove* their case, not to assume it is proven by default.¹⁴⁷

There are no grounds, either, to lend moral legitimacy to the pervasive kind of stolid and complacent agnosticism about animal suffering that pervades our culture. It is not a mere matter of academic disagreement. As Scully puts it:

Conscience must be informed conscience or else it is just caprice, a tyranny of self that shrugs off inconvenient facts of the suffering of other beings. [...] The scientific proposition, 'animals suffer' is either true or false. It is not an opinion, but one way or the other it is an objective reality.¹⁴⁸

If, as I and many others contend, we have a moral duty towards nonhumans on the basis of their capacity to suffer, we likewise have a moral duty to protect nonhumans from the real-world 'fallout' of the ideational and ideological agenda represented by pain sceptics and deniers within the academic sphere. History has shown that to allow pain denial to gain currency and credibility without robust challenge is to allow such views to resolve themselves into hardened attitudes and outright and egregious cruelty, as they did, and continue to do, through the pernicious influence of Descartes' pronouncements concerning animals - which have been instrumental in creating and fuelling reductionist beliefs about nonhumans, and which retain an unfathomable aura of scientific respectability even today.¹⁴⁹

¹⁴⁷ For a comprehensive account of these and related issues concerning the impact of extreme sceptical doubt on the moral issues raised here, I would refer the reader to Elisa Aaltola's excellent paper on this subject: Elisa Aaltola, 'Skepticism, Empathy, And Animal Suffering', *Bioethical Inquiry*, 10 (2013), 457-467 <DOI 10.1007/s11673-013-9481-4>.

¹⁴⁸ Scully, *Dominion*, p.193.

¹⁴⁹ This is to take the 'standard interpretation' to be the correct one. See notes in Singer, *Animal Liberation*, p.282. Some commentators consider that Descartes has been wrongly interpreted on this point. See, for example, Emre Arda Erdenk, 'Descartes' Account Of Feeling Of Pain In Animals' (May 2013)

<https://www.academia.edu/4448943/DESCARTES_ACCOUNT_OF_FEELING_OF_PAIN_IN_ANIMAL_S_Descartes_a_G%C3%B6re_Hayvanlarda_Ac%C4%B1_Hissi_> [Accessed 14 June 2021].

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Chapter 3

Animal consciousness, cognition and capacities

In this chapter I will return to several strands of discussion from Chapter 2, which were set aside temporarily to focus exclusively on the issues of pain and suffering. This was a somewhat artificial break in continuity, as those issues also involve the wider capacity of nonhuman animals to experience the world and themselves as entities within that world. I will now enlarge on the most salient of these issues in relation to the fundamental and morally relevant question of whether nonhumans are conscious in the way that humans are. It will be difficult to avoid some overlap with, and back-referencing to the previous chapter, but repetition will be avoided as much as possible.

It will also be necessary to refer frequently to various secondary evidential sources and expert opinion (from field work, lab work and other observations) to support the various claims being made in this chapter. This is hard to avoid as the positive case here is necessarily evidence-based and cannot effectively be built up in a philosophical vacuum, but these references will be restricted as far as possible to matters directly pertinent to the arguments involved.

In the previous chapter it was noted that sceptics such as Carruthers posit the suppositious notion that nonhumans cannot experience pain in a phenomenally conscious way.¹ Unsurprisingly, perhaps, Carruthers employs this hypothetical paradigm against animal consciousness in general on the basis of the distinction between conscious and nonconscious states; in his view, it is reasonable to ascribe the latter to most animal experiences. Indeed, he considers it an open question whether 'brutes' can have experiences at all.² As he puts it, 'If consciousness is like the turning on of a light, then it may be that their lives are nothing but darkness'.³

Thus, being supposedly devoid of conscious awareness, nonhumans cannot have phenomenal experiences or think about such experiences in the way that humans do, have feelings about those things, or even, as we have seen, be hurt by anything that happens to them. The 'ghastly implication' here, clearly, is that if nonhumans are not conscious of anything, even the subjective phenomenon of

¹ Peter Carruthers, 'Animal Mentality: Its Character, Extent And Moral Significance', in *The Oxford Handbook Of Animal Ethics*, ed. by Tom L. Beauchamp and R. G. Frey (Oxford and New York: Oxford University Press, 2011).

² Peter Carruthers, 'Brute Experience', *The Journal Of Philosophy*, 86:5 (1989), 258-269 (p.261) <<https://www.jstor.org/stable/2027110>> [Accessed 22 April 2019].

³ Ibid., p.259. (Carruthers makes similar claims in various ways throughout the paper.)

their own existence, neither do they have interests of any kind – including an interest in not being harmed or killed.

I have already offered various arguments in the previous chapter as to why the sceptical view of animal pain is badly mistaken and these same arguments, I believe, apply equally in a paradigmatic sense to the subject of animal conscious generally, so I am not now attempting to prove the case all over again, but seeking to augment and consolidate what has been said already and to show that nonhumans are conscious of other things beside pain, which also impinge on and widen their spheres of vital and other interests. For if nonhumans *are* capable of conscious experience they have the basis for sentience, and if they are sentient, they have interests; they are morally considerable entities. Thus, we can no longer disregard them as things, resources, tools, ‘put there’ for our utility and delectation.

Later in the chapter I will be also consider whether it is reasonable to subscribe to the commonly held notion that human consciousness is ‘more than’ that of nonhumans in some way, and that this somehow underwrites notions of human exceptionalism. The key theme throughout, however, is that there are no grounds to argue that the morally relevant property of consciousness is the preserve of human beings but not of nonhumans. I will also argue that consciousness is not a product of advanced cognition nor of conceptual thought; and that (even if this were the case) sceptics are mistaken in their assumptions concerning the degree of cognitive capability that they think would be required for a being to be conscious.

What do we mean by consciousness?

For current purposes I am using the ordinary, commonsense definition of consciousness, i.e., the capacity to have phenomenal experiences and/or mental states; in other words, to know that it is oneself having the experience or states, as opposed to mere detection, in, for instance, a CCTV camera. Elsewhere, it has been defined simply as ‘the thing that feels like something’,⁴ which clearly indicates it to be a subjective state. This is how most commentators use the concept in relation to animal ethics for it is what provides the moral basis for the claim that if I am conscious (however that state may have arisen), whatever happens to me, matters to me.

⁴ Christof Koch, ‘Ubiquitous Minds’, *Scientific American Mind*, 25:1 (2014), referenced by Carl Safina, *Beyond Words: What Animals Think And Feel* (London and New York: Souvenir Press, 2015), p.21.

Beyond this, however, consciousness is a notoriously difficult concept to account for. As yet, there is no philosophical consensus as to what consciousness actually is, how it is produced, and what criteria are required to confirm its presence.⁵ At present, conscious or unconscious states cannot be detected by specific brain activity, nor has a specific part of the human brain been identified which is active only when a person is conscious.⁶ Nevertheless, the prevailing assumption tends to be that consciousness is all to do with neural complexity and that it would in theory be present in a sufficiently powerful and complex AI machine, or virtual brain.⁷ This of course begs the question, how powerful? How many neurons, exactly?

But this notion that a certain degree of high functioning 'processing capacity' somehow produces consciousness seems to me to be deeply problematic. Certainly, computers can emulate or greatly outperform human beings on many kinds of mental tasks and can even use language (one of Descartes' litmus tests for reason), but this is not seriously offered as evidence that they are conscious; they can give readouts of their every internal process, but this is not taken as evidence that they are thinking about thinking. Thus, consciousness seems to be something other than 'mere intelligence'. And if this is true, advanced mentation could in theory be present without consciousness and vice versa, which appears to undermine the sceptical notion that humans (on the basis of reason) are necessarily and uniquely conscious whereas nonhumans are not. Ultimately, I contend, reason itself is a secondary and dependent capacity.

At the same time, I think it is reasonable to take certain *kinds* of intelligent behaviour and other high cognitive and apparently self-referential capacities to be indirect and potential indicators of consciousness (as I am necessarily doing in this chapter, of course), although we can never entirely escape the 'other minds' problem and are therefore forced to rely almost entirely upon inferences from behaviour.

Another prevailing (and plausible) assumption is that consciousness is a product of evolution, arising gradually to meet the need for cognitive flexibility and thus obviating the need for lots of fixed sub-routines.⁸ Certainly, the link between consciousness and evolution is consonant with all that was discussed in the previous chapter, in that it makes consciousness a fundamental property of living

⁵ Donald R. Griffin, *Animal Minds: Beyond Cognition To Consciousness* (Chicago: University of Chicago Press, 1992), p.255 and p.148. See also Frans DeWaal, *Are We Smart Enough To Know How Smart Animals Are?* (London and New York: Granta Books, 2016), p.123.

⁶ Griffin, *Animal Minds*, pp.148-49.

⁷ DeWaal, *Are We Smart Enough To Know How Smart Animals Are?*, p.123.

⁸ James K. Kirkwood, 'The Distribution Of The Capacity For Sentience In The Animal Kingdom', in *Animals, Ethics And Trade: The Challenge Of Animal Sentience*, ed. by Jacky Turner and Joyce D'Silva (London; Sterling, VA: Earthscan, 2006), p.21.

beings generally – not a phenomenon unaccountably reserved exclusively for one species and one species only.

In many respects, this parallels Teilhard de Chardin's important and influential concept of 'complexity-consciousness' – consciousness as the natural outworking of the self-organisation of matter (what he calls 'involution') along a progressive and staged continuum – from simple and inorganic ('pre-vital') molecules and compounds through to sentient life forms such as human beings. However, Chardin's account also seems to envisage consciousness as the primary organising principle behind all evolutionary phenomena, which at the same time emerges from and in a sense fulfils complexity, through the process of evolution. While this offers a perspective which avoids purely materialist explanations on one hand or dualist explanations on the other – and attempts to explain how consciousness arises - it entails a much broader and less clearly defined notion of consciousness than the one that I am using for the purposes of this chapter and thus is only partially relevant to the issues being considered here.⁹

However, the relevance of these observations to this aspect of animal ethics should become apparent as this chapter progresses.

Behaviourism and the denial of nonhuman consciousness

Against this, various commentators take a reductionist view of consciousness, or even try to dismiss it altogether. Daniel Dennett, for example, seems not to make a significant distinction between the apparent 'intentional stance' of self-regulating inanimate mechanisms (e.g., thermostats) and the apparent intentional states of conscious living beings such as humans and nonhumans.¹⁰ We have also previously touched on behaviourism, which considers that we can know nothing of subjective inner states of nonhumans from their behaviour, so it is not

⁹ This is an extremely simplified interpretation of Chardin's highly complex and detailed scientific hypothesis, which he expounds in his various writings. While Chardin's account might be seen as a form of pan-psychism (i.e., mind exists within all phenomena), it should not be confused with unsophisticated notions of all objects having spirits, for example, nor of the idea of matter being literally self-aware. In view of the centrality of Chardin's religious faith, one might better interpret his account in terms of the notion of Immanence (i.e., God is within all matter as well as being its creator). In esoteric thought, God is replaced by the concept of Mind as the primary organising principle of the universe. For an introduction to Chardin's thought, see, for example: Teilhard de Chardin, *Man's Place In Nature: The Human Zoological Group*, tr. by Rene Hague (London and New York: Collins, 1966). See also Bernard Delfgaauw, *Evolution: The Theory Of Teilhard de Chardin*, tr. by Hubert Hoskins (London and New York: Collins, 1969). For a useful summary of some of the issues arising above, see Rupert Sheldrake, 'Is Matter Unconscious?' (chapter), in Rupert Sheldrake, *The Science Delusion: Freeing The Spirit Of Enquiry* (London: Hodder & Stoughton, 2013).

¹⁰ Daniel Dennett, *The Intentional Stance* (Cambridge: MIT Press, 1987), and other works by Dennett, referenced in Griffin, *Animal Minds*, p.263.

scientifically valid to attribute such states to them, or indeed to study such things in the first place – a tendency for which Griffin coined the term ‘mentaphobia’.¹¹

One major problem with the behaviourist view of consciousness, taken literally, is that it makes it almost impossible to understand a great deal of animal behaviour.¹² Thus, for instance, even when pigeons in the ‘Skinner Box’ picture-recall experiments performed as well as primates, behaviourists considered that if even (supposedly mindless) pigeons could do it, there was no need to attribute minds to the Great Apes.¹³ One could describe this arbitrary assumption as the ‘bumblebee equation’, alluding to the much-quoted pseudo-paradox that ‘according to the laws of physics, a bumblebee can’t fly’ – which, of course, is refuted by ordinary observation.

However, as Griffin rightly points out, the argument that mental states cannot be verified or falsified can be applied equally to behaviourists’ own explanations.¹⁴ After all, if we consider that behaviour x or y is taken to indicate or require consciousness in humans, it is reasonable and consistent to infer from behaviour x or y in other species that they also have that faculty; or, to express it conversely, we cannot claim behavioural cues as direct evidence of consciousness in humans either.

This is highlighted further if we consider, for instance, the situation of so-called ‘feral’ children – abandoned or caged human children who adopt the behaviour of the animals with whom they have been raised, including walking on all fours and communicating in barks or grunts rather than human language, which some may struggle to learn, even after being rescued.¹⁵ On this basis, we would not say that they are no longer human, nor that they must be unconscious. However, on a strictly consistent behaviourist account, if they presented only animal-like behaviour (and if there were no other clues) we would not be entitled to attribute consciousness to them.¹⁶

¹¹ Griffin, *Animal Minds*, p.35. Griffin suggests that the ‘mechanomorphic’ trend may be a kind of egoic reaction to Darwin’s ideas – a shattering blow to the deep-seated idea that the human mind must be completely different from that of all other living creatures. Ibid., p.270.

¹² Ibid., p.254.

¹³ Ibid., p.144.

¹⁴ Ibid., p.256.

¹⁵ For brief and general accounts of a selection of cases, with references, see Shannon Quinn, ‘10 Stories Of Feral Children You Won’t Find In Your History Books’, *History Collection* (15 May 2018) <<https://historycollection.com/10-stories-of-feral-children-throughout-history/>> [Accessed 14 October 2021].

¹⁶ This also ties in with ‘marginal cases’ issues: essentially, the fact that disqualifying nonhumans on the basis of perceived ‘inferior’ capacities is logically inconsistent because some severely impaired human beings may be significantly less developed in cognitive capacities than some nonhumans, but still retain their status as full persons and thus full human rights. See, for instance, Peter Singer, *Animal Liberation* (London: The Bodley Head, 2015), pp.17-23. See also Evelyn B. Pluhar, *Beyond*

Before moving on to specific evidence for and against consciousness in nonhumans it will be worth making some general observations concerning what I would see as inherent flaws in the sceptical notion of the categorical distinction outlined above:

Against the sceptical view: consciousness as continuum

While I am aiming these remarks at scepticism in general, there seems to be a particular error in the notion of an absolute, *species-specific* division between conscious and unconscious states envisaged by Carruthers. For instance, he uses the phenomenon of blindsight to demonstrate nonconscious experiences, which he regards as the default state of nonhuman beings.¹⁷ Yet, in experiments with blind-sighted macaque monkeys (trained to select various on-screen options), the monkeys were able to report when they did not see anything.¹⁸ This seems to demonstrate that the monkeys were conscious not only of their actual perceptions but also, significantly, of what perceptions they were *not* experiencing. By extension, this suggests an awareness of the difference between conscious and unconscious states, which we take for granted in humans. We know what it is like to be conscious of what is going on, and know how this differs from being unconscious, even though we cannot directly be conscious of unconsciousness itself. It seems inconsistent, to say the least, to deny the same basic perception in nonhumans too.

Having set out those base-level objections, it will be useful to set out, broadly, why we have good grounds to accord nonhuman beings with the property of consciousness, and particularly in the phenomenological sense of subjective self-awareness, of which sceptics deny that they are capable.

Evidence for animal consciousness: bodies, selves and time

Although we cannot *prove* that nonhuman generally have some form of basic self-awareness, arguing that they have not entails various conundrums concerning their day-to-day existence. It is essential, for instance, for a creature to be able to distinguish between its own physical body from the world 'out there', if it is to avoid nonsensical mishaps such as a dog not knowing the difference between a

Prejudice: The Moral Significance Of Human And Nonhuman Animals (Durham and London: Duke University Press, 1995), p.124.

¹⁷ Carruthers, 'Brute Experience', p.259.

¹⁸ Griffin, *Animal Minds*, p.273.

bone from the butcher and a bone in his own leg.¹⁹ A species with such limited powers of discernment would probably die out very quickly, which suggests that this basic form of self-awareness may be common to the whole animal kingdom.²⁰ The notion of ‘merely conscious’ animals is problematic as well, in that receiving impressions from the environment without the animal being conscious of itself as the recipient of those impressions (known as ‘transcendental unity of apperception’)²¹ would make its experience of the world chaotic and incoherent, if it could be said to exist at all in any meaningful sense.²²

In other words, ‘self’ and ‘consciousness’ cannot exist separately but must be present simultaneously. For, without an already-existing self, an entity would have nothing of which to be cognizant, and without cognizance it would not be able to recognise that self in the first place. Thus, to be conscious is to be a self and vice versa. Likewise, to be sentient, a being must necessarily be conscious; and on this basis, consciousness is not the product of cognition but is primary; it is the ‘space’ within which cognition occurs.

While we need not necessarily think of this apperception as a ‘self’ except in an indicative sense, it has been argued by Jaak Panksepp that certain mammalian brain structures constitute what he calls ‘proto-selves’ and ‘core selves’ and that this could be the case in other animals too.²³ And, certainly, even the simple fact that dogs can respond to their name being called seems to indicate that they know who they are as individuals. Likewise, the fact that language trained apes and African grey parrots such as Alex (raised by Irene Pepperberg) can correctly use personal pronouns – you, me, him, and so on – and refer to their own inner states indicates that they know themselves and others as distinct creatures.²⁴ Similarly, dolphins have unique ‘signature whistles’ – personal call-signs or names created by themselves for life and recognised by others.²⁵

¹⁹ David DeGrazia, *Taking Animals Seriously: Mental Life And Moral Status* (Cambridge, New York and Melbourne: Cambridge University Press, 1996), p.166.

²⁰ Daniel Dennett, *Consciousness Explained* (Boston: Little, Brown and Company, 1991), referenced in DeGrazia, *Ibid.*, p.167.

²¹ Kant’s concept, referenced in Pluhar, *Beyond Prejudice*, p.6. (See also p.249 of this thesis.)

²² Bernard Rollin, for example, considers that ‘merely conscious’ creatures would simply die out. Bernard Rollin, *The Unheeded Cry: Animal Consciousness, Animal Pain, And Science* (Oxford: Oxford University Press, 1989), referenced in Pluhar, *Beyond Prejudice*, pp.5-6.

²³ Jaak Panksepp, ‘Affective Consciousness: Core Emotional Feelings In Animals And Humans’, *Consciousness and Cognition* 14 (2005), 30-80. Referenced in Michael Bradie, ‘The Moral Life Of Animals’, in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.554.

²⁴ Griffin, *Animal Minds*, p.276; DeGrazia, *Taking Animals Seriously*, p.180. See also Christine M. Korsgaard, ‘Interacting With Animals – A Kantian Account’, in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.102.

²⁵ Carl Safina, *Beyond Words: What Animals Think And Feel* (London and New York: Souvenir Press, 2015), p.313.

The self in time and 'narrative unity'

In Chapter 2 we also countered the sceptical claim that most nonhumans do not experience psychological continuity – a coherent sense of themselves as persisting entities with a past and a future. Much of what was previously said in rebuttal also applies here, and again we need not accept this presumptive claim. Here it should be stressed that we are not trying to prove that nonhumans can reflect philosophically on their own existence or their own thoughts; we simply want to establish whether they are conscious of their own existence, perceptions and experiences, and this, I contend, does not require Higher Order Thought any more than does the ability to experience pain or fear, or indeed to fear pain

Thus, domesticated animals and pets, for example, demonstrate both memory and anticipation of events that affect them (for example, feeding time, walks, visits to the vet, holiday boarding) which they may react to with evident excitement or dread, depending on their prior experiences.²⁶ And there are numerous accounts of similar behaviour in various other species; indeed, Sapontzis argues that *all* sentient animals have preferences, and that there would be no evolutionary point in being sentient if a being were unable to seek pleasure and avoid pain.²⁷

This basic argument for conscious awareness through time as the grounding for subjective experience of the world²⁸ also applies to volition ('will') and action within that world. Thus, while it is reasonable to infer from their behaviour that many species can remember things that have *happened to* them and learn from their experiences, we can reasonably infer on the same basis that they also have conscious mental states (desires and beliefs) that explain what they *cause to* happen.²⁹

Various nonhumans such as chimps show evidence of memory of past events and relate them to the present and future, through purposive, planned behaviour, such as planning 'breakfast' in advance.³⁰ Crows and jays display 'deferred gratification' through their decisions about storing and choosing to consume food,³¹ and cuttlefish also exhibit 'deferred gratification' involving choice of food.³² It is also apparent from their hippocampal brain activity that rats in maze

²⁶ Safina, *Beyond Words*, pp.29-30.

²⁷ Sapontzis, *Morals, Reason, And Animals*, pp.186-87.

²⁸ See Pluhar, *Beyond Prejudice*, p.6.

²⁹ DeGrazia, *Taking Animals Seriously*, pp.170-72.

³⁰ DeWaal, *Are We Smart Enough To Know How Smart Animals Are?*, p.218. (DeWaal devotes the whole of Chapter 7 of the book to the subject of future-orientated or planned behaviour by animals.)

³¹ DeWaal, *ibid.* See also, Griffin, *Animal Minds*, p.281.

³² Alexandra K. Schnell, and others, 'Cuttlefish Exert Self Control In A Delay Of gratification Task'. For an academic extract of the paper, see Proceedings Of the Royal Society B., *The Royal Society Publishing* (3 March 2021) <<https://royalsocietypublishing.org/doi/10.1098/rspb.2020.3161>>.

experiments replay their maze journeys both while asleep and while awake, as well as exploring maze paths they have not followed yet - leading DeWaal to conclude that, 'Since humans, too, show hippocampal activity while imagining the future, it is possible that rats and humans relate to the past, present and future in homologous ways'.³³

All of this strongly suggests that many creatures seek to fulfil express preferences, which affirms Sapontzis' point above.³⁴ Interestingly, Carruthers thinks that 'goal frustration' (even in insects) is more fundamental than pain,³⁵ which seems patently inconsistent, for if animals were not conscious enough for pain to matter to them, neither could they be conscious enough to experience 'goal frustration', nor even to set goals in the first place.

The ability to learn

Associative learning (which we explored in relation to pain in Chapter 2) is often cited as convincing evidence of consciousness, as is any form of learned behaviour. But, again, we have no incontrovertible way of testing even this for direct evidence of conscious awareness.³⁶ And on this basis, sceptics will continue to insist that even the most remarkable feats of ingenuity in nonhumans could nevertheless be automatic responses to situations rather than conclusive evidence of consciousness. Thus, it is difficult to evade the key problem of distinguishing between genuine cognition or mentality from mechanical reflexes.³⁷

However, the generic and often-used notion of automation or 'instinct' offers no useful explanation at all. For even if some behaviour has been genetically programmed, this does not mean it cannot be guided by conscious thinking.³⁸ As Sapontzis and Clark have also pointed out, freedom to choose versus instinct or conditioning is not a dichotomy but a continuum. Nonhuman animals may rely to

³³ DeWaal, *Are We Smart Enough To Know How Smart Animals Are?*, p.221.

³⁴ Sapontzis, *Morals, Reason, And Animals*, p.186.

³⁵ Carruthers, 'Animal Mentality', in *The Oxford Handbook of Animal Ethics*, ed. by Beauchamp and Frey, p.382.

³⁶ Griffin, *Animal Minds*, pp.278-80.

³⁷ Bryce Huebner, 'Minimal Minds', in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.445. As an aside, it is interesting to reflect on the notable cleverness of octopuses, which can mimic other sea creatures – indicating a learned ability rather than mere instinct but which has yet to be fully explained. See DeWaal, *Are We Smart Enough To Know How Smart Animals Are?*, p.251. For a more comprehensive account see, Peter Godfrey-Smith, *Other Minds: The Octopus And The Evolution Of Intelligent Life* (London: William Collins, 2016).

³⁸ Griffin, *Animal Minds*, p.279.

a certain extent on instinct, but this does not make them automatons, any more than it does in the case of humans when we do likewise.³⁹

Overall, the notion of mechanical reflexes seems to be undermined by the twin attributes of cognitive flexibility and creativity, examples of which have been hinted at already. After all, nonhumans do not normally exist in controlled laboratory situations but in an unpredictable world of reality, where one cannot envisage all possible outcomes; and here, it is essential to be able to learn and apply generalities and rules, but also to be able to adapt or diverge from them if necessary – not to rely on a static menu of options. Griffin makes the point that as the number and intricacy of supposed ‘*ad hoc* sub-programmes’ increases they become less and less credible as explanations for complex behaviour.⁴⁰

Sceptical attempts to dismiss nonhuman behaviour as automatic responses also tend to forget that automated devices are artificial constructions: they are created and programmed by conscious, intelligent entities in the first place; they are designed to function within an anticipated sphere of eventualities, not truly to think for themselves. Thus, even ‘smart’ AI machines such as self-driving cars may meet unforeseen hazards, and humans must needs intervene to correct them in emergencies. Likewise, it is difficult to see how nonhumans without some equivalent ‘intelligent over-ride’ capacity (requiring the ability to reflect on and learn from their own behaviour) could survive for long enough in the wild to evolve such a capacity in future generations.⁴¹

‘Natural’ hardware: evolution, neurology, brain development

If we turn to neurology, the ‘hardwiring’ of cognition, we do not find any evidence of some special feature that might support the notion of our supposedly unique capacity for consciousness. What we find instead is that important neural structures associated with cognition in human beings are also present in various species of nonhumans – which forms the evidential basis for evolutionary continuity, as discussed in Chapter 2.

Thus, while the human brain is larger and more complex than the brains of other animals, it is essentially similar in many important respects.⁴² We know that the various neural components of the brain appear to be basically similar across the

³⁹ Sapontzis, *Morals, Reason, And Animals*, pp.38-39. See also Stephen R. L. Clark, *The Nature Of The Beast: Are Animals Moral?* (Oxford and New York: Oxford University Press, 1984), pp.19-20.

⁴⁰ Griffin, *Animal Minds*, p.112.

⁴¹ Bernard Rollin, *The Unheeded Cry: Animal Consciousness, Animal Pain, And Science* (Oxford: Oxford University Press, 1989), referenced by Pluhar, *Beyond Prejudice*, pp.5-6.

⁴² Griffin, *Animal Minds*, p.149.

animal kingdom,⁴³ and indeed human brain neurons themselves are virtually indistinguishable from those of other animals, from insects to killer whales, while the genes involved are basically the same.⁴⁴

This can be pressed further still in the light of the 'triune brain' theory, which holds that the human brain comprises more primitive structures known as the reptilian brain, the old mammalian brain, and the new mammalian brain (the basal ganglia, limbic system and neocortex, respectively), which is also associated with the sense of self.⁴⁵ Elsewhere, the human brain has been called a 'linearly scaled-up primate brain'.⁴⁶

Of particular significance, too, is the discovery of 'mirror' and 'spindle' neurons in the brains of humans and various other kinds of animals (indeed, mirror neurons were first discovered in monkeys), which have been associated with altruistic and empathetic behaviour.⁴⁷ Even areas equivalent to the Broca's and Wernicke's areas of the human brain, governing speech, are present in a form in other animals (including mice), with just one gene determining how they operate;⁴⁸ however, they are not known by the same names because the animals are not physically capable of human speech.⁴⁹

We also find from MRI evidence that the human brain works very much like other mammalian brains, with similar brain areas being engaged in cognition.⁵⁰ Thus, brainstems in animals show emotional reactions/states working similarly to human brains.⁵¹ On this basis it is fair to consider that such neural similarities indicate cognitive similarities too,⁵² which echoes Hume's prescient argument from *A Treatise Of Human Nature*, where he says: 'When any hypothesis [therefore] is advanc'd to explain mental operation, which is common to men and beasts, we must apply the same hypothesis to both'.⁵³

⁴³ Griffin, *Animal Minds*, p.149.

⁴⁴ Safina, *Beyond Words*, pp.32-33 and p.344. Additionally, it is possible that human brain hormones may be traced back up to 700 million years. *Ibid.*, p.32.

⁴⁵ Bradie, 'The Moral Life Of Animals', in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.554.

⁴⁶ K. A. Semenderi and others, 'Humans And Great Apes Share A Large Frontal Cortex', *Nature Neuroscience*, 5 (2002), 272-274, cited by DeWaal, *Are We Smart Enough To Know How Smart Animals Are?*, p.124.

⁴⁷ Marc Bekoff and Jessica Pierce, *Wild Justice: The Moral Lives Of Animals* (Chicago and London: The University of Chicago Press, 2010), p.100; and Safina, *Beyond Words*, p.280.

⁴⁸ Safina, *Beyond Words*, p.289.

⁴⁹ Griffin, *Animal Minds*, pp.150-51. See also De Waal, *Are We Smart Enough To Know How Smart Animals Are?*, p.109.

⁵⁰ DeWaal, *Are We Smart Enough To Know How Smart Animals Are?*, p.117.

⁵¹ Safina, *Beyond Words*, p.32.

⁵² Pluhar, *Beyond Prejudice*, p.13.

⁵³ David Hume, *A Treatise Of Human Nature* (Harmondsworth UK: Penguin, 1985), 1:3:16, quoted in DeWaal, *Are We Smart Enough To Know How Smart Animals Are?*, pp.268-69.

The foregoing is a mere snapshot of the available evidence for shared neural mechanisms: as such evidence continues to increase, it also continues to strengthen the case for homology and evolutionary continuity across species, rather than the case for human uniqueness.⁵⁴

Is bigger always better?

One rarely advertised neurological fact is that the human brain is nowhere near the largest in the animal kingdom. An elephant's brain is three times the size of a human's, with three times as many neurons, while their pyramidal neurons (associated with motor control, cognition and recognition) are larger than ours and organised for many more connections.⁵⁵ Dolphins' brains are also (slightly) larger than ours, while the sperm whale's 8-kilogramme brain is the largest of all.⁵⁶ Whales also have more neocortex area, relative to brain size, than humans do (although the human neocortex is thicker and more neurally dense).⁵⁷

However, while there is an apparent correlation between brain size and cognitive capacity there does not seem to be a consistent, unbroken hierarchy of cognition. It is hard to understand why, for instance, at one end of the scale a whale's enormous brain does not appear to produce comparable levels of performance with our own, while, at the other end of the scale, an insect with a brain the size of a pin-head can exhibit high cognitive functions, including tool use (in the case of ants), symbolic language (in the case of bees) and facial recognition (in the case of paper wasps), which were once thought to be uniquely human.⁵⁸

Such phenomena, as Huebner considers, seem to indicate that some invertebrates (insects) have minimal conditions for cognitive states,⁵⁹ and indeed Carruthers considers that bees, wasps and spiders seem to display 'propositional attitudes' (intentional states), which are apparent in the way that they navigate, communicate, and represent things in the environment.⁶⁰ This echoes Darwin's findings from his experiments with earthworms, which seem to experiment and

⁵⁴ DeWaal, *Are We Smart Enough To Know How Smart Animals Are?*, p.274.

⁵⁵ DeWaal, *Ibid.*, p.124; and Safina, *Beyond Words*, p.105.

⁵⁶ Griffin, *Animal Minds*, p.228. Animals vary enormously in size, and for that reason neurologists devised a system to compensate for this in the form of the body-brain size ratio or Encephalisation Quotient (EQ), to take this into account. Thus, creatures seen to exhibit high intelligence, such as crows, elephants and rats, tend to have high EQs, although other indicators are required to assess actual cognitive performance. See also Safina, *Beyond Words*, pp.342-43.

⁵⁷ Safina, *Beyond Words*, p.343.

⁵⁸ See Safina, *Beyond Words*, p.22; Griffin, *Animal Minds*, p.114; and DeWaal, *Are We Smart Enough To Know How Smart Animals Are?*, p.73.

⁵⁹ Huebner, 'Minimal Minds', in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.442.

⁶⁰ Carruthers, 'Animal Mentality', in *The Oxford Handbook of Animal Ethics*, ed. by Beauchamp and Frey, pp.380-82.

learn by trial and error - again suggesting the operation of cognition and intelligence rather than mechanical routines.⁶¹

It is apparent from research studies that even tiny insect brains are not structurally simple.⁶² Nevertheless, such astounding facts as those indicated above have led notable ethological philosophers to ask, repeatedly (but fail to answer), how it is physically possible for such miniscule brains to enable these extraordinary capacities. Indeed, DeWaal raises the question of what this implies for the status of cognition in 'higher' animals and even in humans,⁶³ and suggests that: 'Proponents of human uniqueness face the possibility that they have either grossly overestimated the complexity of what humans do or underestimated the capacities of other species'.⁶⁴

Such glaring scalar anomalies seem to confound accepted notions of a necessary, non-arbitrary relationship between neural mass/complexity and cognitive ability and may even force us to rethink our current understanding of the relationship between the brain, cognition and consciousness. Indeed, if we seriously want to resolve these profound and important questions, we may eventually have to look beyond conventional neurological models for answers.⁶⁵

Cognition and rationality

Major philosophers such as Descartes and Kant maintained that we humans possess the faculty of reason while nonhumans supposedly do not, which underpins the presumptive and problematic notion of human superiority. On the other hand, Hume argued that animals are 'endowed with thought and reason as well as men' and talked of 'extraordinary instances of sagacity among animals, and

⁶¹ Charles Darwin, *The Formation Of Vegetable Mould Through The Actions Of Worms* (Chicago: University of Chicago Press, 1985), referenced in Huebner, 'Minimal Minds', in *The Oxford Handbook of Animal Ethics*, ed. by Beauchamp and Frey, pp.453-54.

⁶² C. Koch and G. Laurent, 'Complexity And The Nervous System', *Science*, 284 (1999), 96-98, referenced in Griffin, *Animal Minds*, p.149.

⁶³ DeWaal, *Are We Smart Enough To Know How Smart Animals Are?*, p.73. See also Safina, *Beyond Words*, p.198.

⁶⁴ DeWaal, *Are We Smart Enough to Know How Smart Animals Are?*, p.268.

⁶⁵ For instance, quantum mind theory, which marks a break with ordinary computational accounts of mind based on classical Newtonian principles. It offers the possibility that sub-atomic phenomena (as described by quantum theory) may be involved in the transmission of information and in mind activity. This area stems from pioneering (and respectable) work by in the sciences by, *inter alia*, J. B. S. Haldane, David Bohm, and Roger Penrose. Referenced in *Who's Afraid Of Schrodinger's Cat: The New Science Revealed: Quantum Theory, Relativity, Chaos And The New Cosmology*, ed. by Ian Marshall and Danah Zohar, (London: Bloomsbury, 1997), p.299. This involves highly advanced and specialised knowledge of emergent physical science and as such is beyond the scope of the current work.

the fact they can learn through experience,⁶⁶ which clearly foreshadows the conclusions reached by Darwin through his own close observations of nature.

Somewhat like consciousness, intelligence (as we commonly refer to reason and understanding) is notoriously difficult to define in humans, let alone in other species.⁶⁷ However, what has been discussed so far supports DeWaal's point that the zero-sum notion of cognitive development (i.e., humans have it all while no other species has it at all) goes against evolutionary theory and neurology.⁶⁸ Indeed (according to Roth and Dicke), even the exceptional intelligence of humans appears to stem from 'a combination and enhancement of properties found in nonhuman primates [...] rather than from "unique" properties'.⁶⁹

It is also repeatedly contradicted by empirical research. Scientific research and field studies continue to yield an increasing body of evidence that nonhumans behave rationally, intelligently and flexibly. Abilities once tentatively associated with 'honorary humans' such as the great apes are now observed in varying degrees in a widening range of creatures from elephants, pigs, sheep, octopuses, parrots, corvids, pigeons, rats,⁷⁰ chickens, fish, and (as was outlined above) certain social insects. In short, there are no grounds to argue that only humans are rational; and by extension, there are no grounds to argue that creatures must be human-like – or even primate-like - to be rational beings.

Of particular interest here are controlled experiments which show that certain animals can solve problems in their head (known as representational mental strategy) before acting.⁷¹ For instance, ravens and crows can grasp and solve novel, multi-stage problems beyond the capabilities of dogs or human children, without error, which means they can imagine and work out solutions in their minds.⁷² There is perhaps an evolutionary advantage here, in that animals who can work out strategies in their heads can avoid the risk of performing them on a trial and error basis and making potentially fatal mistakes.⁷³

This also seems to be corroborated by the behaviour of some animals even when they do not know what to do next (known as the uncertainty response). In various

⁶⁶ David Hume, *A Treatise Of Human Nature* (Wentworth Press, 2016), Book I, Part III, Section XVI, paras 1 and 5. Kindle ebook.

⁶⁷ Safina, *Beyond Words*, pp.340-42.

⁶⁸ DeWaal, *Are We Smart Enough To Know How Smart Animals Are?*, p.43.

⁶⁹ G. Roth and U. Dicke, 'Evolution Of The Brain And Intelligence', *Trends In Cognitive Science*, 9:5 (2005), quoted in Safina, *Beyond Words*, p.344.

⁷⁰ Remarkably, Carruthers considers that Skinner's experiments seem to show that rats and pigeons use reason rather than mere instinct and association. Carruthers, 'Animal Mentality', in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.379.

⁷¹ DeWaal, *Are We Smart Enough To Know How Smart Animals Are?*, pp.86-87.

⁷² Safina, *Beyond Words*, p.193.

⁷³ Griffin, *Animal Minds*, p.284.

laboratory experiments, animals such as rats, monkeys and dolphins were trained to choose between two things to get a reward or to press a 'don't know' lever if they could not decide. The fact that they sometimes took the latter option suggests that they were aware of and had beliefs about their own mental states (known as metacognition) at the time; they were able to say, in effect, 'I know that I don't know'.⁷⁴

If we were describing humans, we would unhesitatingly describe all of these processes as 'thinking'; yet the sceptical 'bumblebee equation', once again, insists that nonhumans *cannot* think. And, in their account, this is because thinking supposedly requires the related capacities of language use (which we touched on in Chapter 2 in relation to pain) and conceptualisation – capacities which cannot be present in animals according to the sceptical position.

It is worth exploring these objections a little more, for they have tended to be regarded as central to the debate concerning consciousness.

Animals do not have language

The assumption that, without language, animals cannot have thoughts either, has been voiced by commentators such as R. G. Frey. In Frey's formulation, essentially, to have desires and beliefs, a being must have self-consciousness, which requires language. But, as animals do not (he claims) have language, they cannot have desires and beliefs; and without these things, they cannot have interests (and, from these, intentions); and without interests, they cannot have moral rights.⁷⁵

The most obvious response to the assertion that animals do not have language is that, in its elementary sense, it is patently untrue. This is not necessarily to argue for complex, highly structured linguistic language like our own, but to acknowledge the overwhelming evidence that many species can communicate effectively and meaningfully with one another using various sounds, calls, signals, and body language, which play an important part in their individual and collective

⁷⁴ Julia Driver, 'A Humean Account Of The Status And Character Of Animals', in *The Oxford Handbook of Animal Ethics*, ed. by Beauchamp and Frey, pp.152-53. See also DeWaal, *Are We Smart Enough To Know How Smart Animals Are?*, pp.230-31. Interestingly, this concurs with Hobbes' idea that deliberation and will (managing internal states) are not really different from capacities seen in other animals. Thomas Hobbes, *Leviathan*, (Indianapolis, Ind: Hackett Publishing, 1994), chapter 11, referenced by Huebner, 'Minimal Minds', in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.448.

⁷⁵ This refers to Frey's book, *Interests And Rights – The Case Against Animals*. The detailed critique appears in Sapontzis, *Morals, Reason, And Animals*, p.115 and pp.127-29. See also Michael Tooley, 'Are Nonhuman Animals Persons?' in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.346.

survival - for example to share information about sources of food and water and to warn one another about predators.⁷⁶ As such, they conform to Sue Savage-Rumbaugh's definition of proper language as, 'A communicative signal [which] must convey meaningful knowledge, and [whose] user must be able to employ it both to transmit and to receive such knowledge'.⁷⁷

Various types of animal communication do meet Savage-Rumbaugh's criteria, including, remarkably, the honeybee's waggle-dance. It is well known that bees 'dance' location information about sources of nectar; in addition to which they also 'dance' information they have found when visiting potential new nest sites. When they return to the nest from these visits, they collectively share, compare and evaluate their findings in a sort of co-operative (one might say democratically-organised)⁷⁸ 'shortlisting' process before achieving a consensus about the best site.⁷⁹

During the process the bees can influence or correct one another and change their minds, all of which suggests they are using meaningful and flexible information exchanges, not reflex behaviour. The reasonable inference is that the bees are communicating using basic symbolic information that matters to them; in other words, they are thinking about and sharing information as humans do.⁸⁰ So important is this attribution of symbolic language to honeybees that it has been said that it 'upset[s] the very foundation of behaviour and biology in general'.⁸¹

Additionally, some nonhumans can learn and use vocal or sign-language or special keyboards to communicate with human beings, as numerous well-known studies involving great apes, orcas, dolphins and birds can attest.⁸² And in the latter case, some animals – like Koko the gorilla, Kanzi the bonobo, or Alex the parrot – were able to describe basic goings-on in their immediate environment, request things not present, and even give spontaneous insights into their own inner states,

⁷⁶ Michael Bradie, 'The Moral Life Of Animals', in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.569.

⁷⁷ Sue Savage-Rumbaugh, *Ape Language: From Conditioned Response to Symbol* (New York: Columbia University Press, 1986), referenced in Griffin, *Animal Minds*, p.243.

⁷⁸ 'For so work the honey bees,/Creatures that by a rule in nature teach/The act of order to a peopled kingdom.' William Shakespeare, *Henry V*, Act I, Scene 2, 187-89. *The Illustrated Stratford Shakespeare* (London: Chancellor Press, 1987), p.446.

⁷⁹ Griffin, *Animal Minds*, p.199 and p.205.

⁸⁰ *Ibid.*, pp.209-10. Remarkably, too, weaver ant scouts returning to their nest appear to 'pantomime' things that they have found when reporting to other ants, and to 'pantomime' fighting gestures when being recruited for combat with other groups. It is difficult to see such astonishing examples as anything but what they appear to be – instances of intentional and conscious communication. See Griffin, *Animal Minds*, p.189.

⁸¹ R. Rosin, 'The Honey-Bee "Language" Controversy', *Journal Of Theoretical Biology*, 72 (1978), 589-602, quoted in Griffin, *Animal Minds*, p.271.

⁸² Jeffrey Masson and Susan McCarthy, *When Elephants Weep: The Emotional Lives Of Animals* (London: Vintage, 1996), p.36. See also Griffin, *Animal Minds*, pp.248-49.

emotions, needs, desires and preferences.⁸³ Dolphins can not only recognise arbitrary symbols for things but can also devise their own when they want to communicate (such as a piece of fish placed on a blank key on a keyboard).⁸⁴

Syntax and rules

Some have tried to rule out true language use even in the Great Apes by insisting on the requirement for elaborate syntax, but this would also rule out true language in very young human children. However, although chimps may use simple combinations of signs/symbols, they can still readily use them to convey information and to ask for things (which has led to speculation that they may already use their own native form of sign language anyway, which is merely augmented by using the human version).⁸⁵ Similarly, elephants may not have complex syntax but they have a vocabulary of sounds and gestures which they can combine in a variety of ways and can even distinguish between different spoken human languages.⁸⁶

But is it true that nonhumans cannot use syntax at all? Kanzi was able to learn simple grammatical rules and even invented some of his own.⁸⁷ His ability to combine symbols in new and unique ways to request things 'off menu', seems to demonstrate, according to Achim Stephan, Kanzi's 'cognitive access to his own wishes' – that is, his own intentional states.⁸⁸ Similarly, dolphins can respond to novel and complex human commands involving several steps and also seem to grasp basic syntax and modifiers.⁸⁹ In the light of this behaviour among the Great Apes and dolphins, it has been suggested that inflexion in language may itself be a natural way of expressing grammatical relationships: it would not make sense for an animal to use syntax with humans if it did not use it in some form in nature.⁹⁰

Another sceptical defence is the Turing Test, which argues that it is possible to use symbols correctly but mechanistically, with no idea what they actually mean – which was the subject of Searle's Chinese Room thought experiment in 1980.⁹¹

⁸³ Masson and McCarthy remark upon our tendency not to believe language trained animals such as Alex even when they do talk about their feelings. Masson and McCarthy, *When Elephants Weep*, pp.34-35.

⁸⁴ Safina, *Beyond Words*, p.339.

⁸⁵ Griffin, *Animal Minds*, pp.241-42.

⁸⁶ Safina, *Beyond Words*, p.91 and p.105. See also DeWaal, *Are We Smart Enough To Know How Smart Animals Are?*, pp.238-39.

⁸⁷ Griffin, *Animal Minds*, p.250. See also Safina, *Beyond Words*, p.291.

⁸⁸ Achim Stephan, 'Are Animals Capable Of Concepts?', *Erkenntnis*, 51:1 ['Animal Minds'] (1999), 79-92 (p.89) <<https://www.jstor.org/stable/20012941>> [Accessed 22 April 2019].

⁸⁹ Griffin, *Animal Minds*, p.232. Safina, *Beyond Words*, p.312.

⁹⁰ Griffin, *Animal Minds*, p.234. Safina, *Beyond Words*, pp.89-90.

⁹¹ Huebner, 'Minimal Minds', in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.449. See also John Searle, 'Minds, Brains, Programs', *Behavioural And Brain Sciences*, 3 (1980), 417-24.

However, in practice, this test would still require the ability to understand and respond to instructions at some level, as we do with, for instance, guitar tablature instead of musical notation. It may indicate that we cannot understand Chinese (or music) but not that we cannot use some form of meaningful discourse at all, albeit with an interpolated layer of symbolism. Let us not forget, that in as far as animals do communicate with one another, they are native users of their own language, not passive traffickers in it or strangers to it; this makes it highly unlikely that animals communicate without any sort of understanding of what they are doing.⁹² As Safina remarks, we are too quick to disregard animal language as stereotypical ‘grunts’, ‘calls’ and so on: we do not seem to be able to appreciate the nuances involved, which are highly meaningful to them.⁹³

As was noted above, animals such as apes and dolphins can learn to use language to express (among other things) desires and intentions that relate to their actions. But it does not seem plausible that they did not have these desires and intentions before they learned this new skill. It is not the signifier that gives rise to that desire; language is only needed to articulate a desire or intention, not to hold one.⁹⁴

On this basis I would concur with Sapontzis, whose forensic analysis has a kind of ‘domino effect’ on Frey’s argument. Thus (to compress and greatly simplify it here), ‘Having desires does not require linguistic ability, since neither belief nor self-consciousness requires this ability’. And in his view, ‘Frey fails to demonstrate that language is required for belief. Consequently, he fails to demonstrate that animals cannot have belief-mediated desires’.⁹⁵ Importantly, as a consequence, Frey’s attempt to deny interests (and therefore moral considerability) to animals on this basis also fails.⁹⁶

In addition to the invalidity of Frey’s *a priori* argument relating to the (supposedly) key role of language, the individual components within that argument are

⁹² Griffin, *Animal Minds*, p.272.

⁹³ Safina, *Beyond Words*, p.91 and p.292. Here, I think, one can draw a potentially useful analogy between human/nonhuman language and the sociolinguistic concepts of ‘restricted’ and ‘elaborated’ code (i.e., the difference between ‘educated’ and ‘non-educated’ discourse, which tends to be associated with social class and perceptions of intelligence). In the former case, the speaker uses complete sentences and gives more detail when describing something; in the latter case, the speaker may just use a few words to give a basic idea of whatever they are describing, or simply point to it if they can. See Basil Bernstein, *Class, Codes And Control: Theoretical Studies Towards A Sociology Of Language* (London: Routledge & Kegan Paul, 1971). Likewise, I think, we could speak of ‘elaborated cognition’ (= human) and ‘restricted cognition’ (= animal). But here the distinction and associated assumptions would relate to species differences rather than social class.

⁹⁴ Michael Tooley, ‘Are Nonhuman Animals Persons?’, in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.346.

⁹⁵ Sapontzis, *Morals, Reason, And Animals*, pp.127-28 and p.130.

⁹⁶ DeGrazia, *Taking Animals Seriously*, pp.4-5.

themselves also based on suppositious and empirically dubious notions. I will consider these issues further below.

Conceptual thought and Imagistic thinking

From what has been said previously, it is apparent that there is no need to verbalise or conceptualise pain in order to experience it; nor, psychologically speaking, is there a need to conceptualise fear or other mental states in order to experience them.⁹⁷ But it is fair to ask how, then, nonhumans hold ideas of things in their minds, which they must do in some way simply in order to remember them. One possibility, envisaged by Tooley (who argues that language is not necessary for beliefs/intentions anyway) is that internal *images* could work perfectly well instead of verbal language – that imagistic thinking is possible.⁹⁸

Certainly, it seems plausible that conceptual thought may occur without language – in the literal sense of being able to hold and represent an idea in the mind in some form, but not necessarily in words. Some animals seem able to grasp that one thing can stand for another and can make symbolic use of things in their environment, such as the familiar example of a dog getting its lead to indicate that it is time to go for a walk. Sometimes (speaking here from experience) animals experiencing phantom pregnancies may substitute toys for real, live babies. In effect, they are using imaginative substitutes (one might even argue for a form of metonymy) – ergo, they have imagination. For which purpose they must be able to conceive without verbal thoughts, or think about thoughts, even if they cannot name them.⁹⁹

However, this depends on how strictly we define concepts. For instance, Colin Allen argues that the ability to discriminate between things and recognise one's own 'discrimination errors' is evidence of concept formation.¹⁰⁰ And this may be supported by the fact that some nonhumans can learn simple but relatively abstract category rules such as oddity and irregular/regular patterns.¹⁰¹ Alex the parrot, for example, could sort various types of object that he had never seen before by colour, shape, material, and so on and correctly respond to various questions about them.¹⁰² Similar kinds of ability are also apparent from various

⁹⁷ Sapontzis, *Morals, Reason, And Animals*, p.128.

⁹⁸ Tooley, 'Are Nonhuman Animals Persons?', in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.357.

⁹⁹ See Griffin, *Animal Minds*, p.258.

¹⁰⁰ Colin Allen, 'Animal Concepts Revisited: The Use Of Self-Monitoring As An Empirical Approach', *Erkenntnis* 51 (1999), 33-40, referenced by Achim Stephan, 'Are Animals Capable Of Concepts?', p.83.

¹⁰¹ Griffin, *Animal Minds*, pp.131-32 and pp.134-35.

¹⁰² *Ibid.*, p.182.

experiments involving pigeons, which can recognise people in photographs, and even recognise images of other ‘weird’ varieties of fancy pigeon as members of their own species.¹⁰³

Remarkably, experiments appear to show that birds can recognise and use very basic numbers and numerals, and thus seem to be capable of understanding relatively simple concepts as ‘unnamed thoughts’.¹⁰⁴ Even more significantly, Alex was able to report the concept of ‘none’ when asked to count various objects.¹⁰⁵ For, while it may be possible for an animal to distinguish between and categorise different objects that are physically present without necessarily using concepts, it is harder to explain how they can say (like the blind-sighted macaques mentioned earlier), ‘There is nothing there’, unless they have some general and portable concept or image of ‘nothing’ which is independent of immediate concrete referents. Nothing, by definition (‘no-thing’), means that a thing does not exist in the world; thus, it must exist as an idea in the mind.

At the same time, imagistic thought is limited in application; and here, Tooley thinks that it is more ‘functionalist’ in nature and does not agree, for example, that a dog can have actual complex beliefs. Indeed, some have argued that it cannot support conscious interest – i.e., in continued existence, planning for the future, and so on. (I think this is refuted directly by what has already been stated above). On the whole, Tooley does not seem to think there can be any meaningful crossover from imagistic to verbal thought.¹⁰⁶

However, I do not think this is necessarily relevant here. As Clark summarises it (alluding to Wittgenstein), ‘In ordinary life we do not doubt that dogs believe that their master’s at the door, that there’s a cat outside, that they’ve done something wrong’.¹⁰⁷ And this very basic functional idea of belief – as the ability to expect and anticipate, based experientially on ‘what normally happens’ – is, I think, sufficient for what is being argued in this chapter. Rats, for example, show expectation when they cringe or avoid things that have given them electric shocks; they also show expectation when a normal food reward is withheld: they appear confused and upset, and search for the expected treat, as if expecting that it ‘should’ be there.¹⁰⁸

¹⁰³ Griffin, *Animal Minds*, p.140.

¹⁰⁴ Otto Koehler, ‘Thinking Without Words’ (1956), and other works by Koehler, referenced by Griffin, *Animal Minds*, pp.132-33.

¹⁰⁵ Virginia Morell, *Animal Wise: How We Know Animals Think And Feel* (New York: Crown Publishers, 2013), p.82. How, or whether this relates to the concept of zero as we understand it, is of course open to debate.

¹⁰⁶ Tooley, ‘Are Nonhuman Animals Persons?’, in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.343, pp.357-59 and p.364.

¹⁰⁷ Clark, *The Nature Of The Beast*, pp.23-24. See also Safina, *Beyond Words*, p.82.

¹⁰⁸ Griffin, *Animal Minds*, p.130.

This is not, however, to argue that nonhumans have abstract conceptual beliefs or notions (such as justice, infinity or mermaids); at the same time, I do not think that they need them. Thus, going back to number concepts above, it is possible to conceive what ‘nothing’ is without necessarily requiring an advanced abstract concept of ‘*nothingness*’, which is in effect a concept of a concept. By the same token, I do not think we need to accept Donald Davidson’s questionable claim that to have a belief one must have a concept of belief,¹⁰⁹ which, if it does apply at all, would be relevant *only* to higher order, reflexive thinking. One might ask oneself, ‘Is it really conceivable that my belief in God a reasonable one?’, but there is no actual *need* to say, for instance, that ‘I conceive that I believe that my leg is broken’, or that ‘It will rain tomorrow’, which is mere tautology.

To avoid such complications, it may be that the term ‘imagistic’ would be better expressed by a broader (if clumsier) term such as ‘encoded perceptual capture’ – to indicate a sort of holistic snapshot of sense data from a given event, including a creature’s perceptions and inner states at that moment. This concerns the form in which memories and impressions are encoded, stored, and carried, rather than (necessarily) what those memories are – the medium rather than the message. Thus, an imagistic recollection could include the sense of smell, which is highly developed in certain animals. For example, a dog sniffing a series of lampposts may be building up a store of olfactory information (or ‘smell stories’) about previous visitors that could be recalled in a basic narrative-equivalent way. To make free with McLuhan somewhat, we could say that the medium here *is* the message.¹¹⁰

To deny that animals can have experiences and recall them because they do not think in language makes it inconsistent to attribute psychological states, beliefs or desires to prelinguistic children.¹¹¹ If language were an absolute requirement for concept formation, one could hardly explain how young children can relate to perceptions (a non-verbal perception of ‘mummy’, for instance) in the first place, and harder still to understand how they could encode and carry those things as events and memories without some kind of pre-linguistic equivalent of conceptualisation – which one can equally envisage in nonhuman animals, unless one wants to argue, against all the evidence and ordinary common sense, that animals do not have memories.

¹⁰⁹ Stephan, ‘Are Animals Capable Of Concepts?’, pp.80-81.

¹¹⁰ Marshall McLuhan, *Understanding Media: The Extensions Of Man* (New York: McGraw Hill, 1963), Chapter 1.

¹¹¹ Kristin Andrews, ‘Beyond Anthropomorphism: Attributing Psychological Properties To Animals’, in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.475.

Intentional behaviour

Some commentators see intentional behaviour in animals as self-evident. Searle, for instance defines intentionality in simple terms: a lion stalks its prey; it intends and aims to catch its prey, to kill it and eat it.¹¹² Griffin also gives the example of jumping spiders invading other spiders' webs and luring them out by twanging on their webs, using trial and error. If monkeys did this, we would tend to impute intentionality to their behaviour.¹¹³ However, as Stephan's analysis implies, these can only ever be inferences on our part. Certain animals (such as Kanzi) seem to be able to articulate (and thus understand) their intentions, while 'dim witted' Sphex wasps appear to be acting mechanistically and rigidly. Thus, Stephan, essentially, posits a continuum between those extremes, but it is very difficult to ascribe them with any certainty to individual species.¹¹⁴

At the same time, it is hard to dismiss what is probably the most salient breakthrough evidence we have for purposive behaviour and intentionality in nonhumans – that of tool use, which was thought to be an exclusively human capability until it was discovered in chimps in the 19th century.¹¹⁵ We now know that other species, such as otters, elephants, dolphins, birds, octopuses and even some insects, also use tools. Ants, for example, use materials such as sponges to mop up liquid to transport it. Similarly, crows have been seen to make and carry tools (such as twigs with hooks) and take care of tools and maintain them for future use, not unlike chimpanzees.¹¹⁶

By definition, an animal going somewhere with tools signals an intention to do something with them:¹¹⁷ in law, 'going equipped' is recognised as evidence of *intent* to commit a crime; by applying the same logic to nonhumans, it is very difficult to deny the link between tool use and some fundamental sense of purposive self-continuity into the future. Importantly, not all animals of one tool-using species use tools; it seems to be a form of creative specialisation based on learning and experience:¹¹⁸ in other words, they are no more 'wired up' to do it than humans are 'wired up' to play the piano or fix car engines.

¹¹² J. R. Searle, *Intentionality: An Essay In The Philosophy of Mind* (New York: Cambridge University Press, 1984), referenced by Griffin, *Animal Minds*, p.257.

¹¹³ Griffin, *Animal Minds*, p.63.

¹¹⁴ Stephan, 'Are Animals Capable Of Concepts?', *Erkenntnis*, 51:1 ['Animal Minds'] (1999), p.89. See also Stephan's introductory summary of contributions to the same edition of the journal, 'Animals, Beliefs, Concepts And Communication', 1-6.

¹¹⁵ Safina, *Beyond Words*, pp.194-95.

¹¹⁶ Griffin, *Animal Minds*, p.117; and Safina, *Beyond Words*, pp.195-98.

¹¹⁷ Griffin, *Animal Minds*, pp.113-14.

¹¹⁸ *Ibid.*, pp.114-15.

Other evidence of self-awareness

The mirror test and 'mindreading'

The now very familiar Gallup 'mirror test', shows that nonhuman animals such as chimpanzees, elephants and orcas demonstrate that they can recognise their own reflections, rather than attacking what they perceive as another animal looking back at them, as cats or dogs may do - which suggests that those creatures have, literally, a reflective sense of self.¹¹⁹ However, some ethologists consider that this criterion is limited in application. It is possible that some animals are aware of what they are looking at but may not be as interested in their own reflections as we are.¹²⁰ (Surprisingly, most gorillas 'fail' the test.)¹²¹ Indeed, the test itself, seems to point to a paradox:

A creature lacking self-concept would be unable to differentiate itself from anything, so it would assume that the reflected image is itself. But a mobile creature unable to differentiate itself from anything could hardly exist.¹²²

A viable alternative is the phenomenon of mindreading – certain animals' abilities to 'second guess' what conspecifics and other animals may or may not do (formally known as Theory of Mind). This is a potentially more useful indicator for it seems to show that animals can (a) understand another animal's perspective in a given situation or (b) represent another animal's mental states.¹²³ It is an important indicator of different/complex cognitive and social capacities, and may indicate a capacity for metacognition, which Carruthers denies in nonhumans.¹²⁴

Interestingly, deceptive behaviour is part and parcel of mindreading in nature (for instance, where animals pretend to stash food in one place, or move it from place to place, to foil theft by other animals), which may sometimes provide even better evidence of conscious intent than the communication of fairly accurate information.¹²⁵ For example, wild bears try to avoid leaving tracks when hunters are

¹¹⁹ Amanda Pachniewska, 'Animals That Have Passed The Mirror Test', *Animal Cognition* (15 April 2015) <<http://www.animalcognition.org/2015/04/15/list-of-animals-that-have-passed-the-mirror-test/>> [Accessed 4 June 2021].

¹²⁰ Safina, *Beyond Words*, p.276.

¹²¹ Andrews, 'Beyond Anthropomorphism', in *The Oxford Handbook of Animal Ethics*, ed. by Beauchamp and Frey, p.481.

¹²² Safina, *Beyond Words*, p.276.

¹²³ Jose Luis Bermudez, 'Mindreading And Moral Significance In Nonhuman Animals', in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, pp.411-12.

¹²⁴ Bermudez, 'Mindreading And Moral Significance', p.410. However, Bermudez distinguishes between perceptual mindreading and propositional mindreading (involving beliefs) – which requires language, according to some theorists. *Ibid.*, p.416 and p.426. Similarly, Griffin raises the possibility that other animals are 'behaviourists': i.e., they are concerned with what other animals do, not what they might think. Griffin, *Animal Minds*, p.278.

¹²⁵ Safina, *Beyond Words*, p.261 and Griffin, *Animal Minds*, p.226.

around, as though aware that their tracks may be followed.¹²⁶ Some animals in experiments (such as monkeys or dogs) tend to steal food when humans are not looking, suggesting that, 'they understand that we understand, and that our goals differ'.¹²⁷ Domestic dogs too, seem to have theory of mind: they can learn to work out when they are being deceived; they also seem to understand and react to differing intentions behind similar actions, such as being kicked accidentally or deliberately.¹²⁸

Emotion

Aside from functional accounts of behaviour, it is also reasonable to suggest on evidential, anecdotal and logical grounds that other animals have emotions such as fear, pleasure, anger, jealousy and grief, and here again we can point to neurological correspondences between ourselves and 'lower' animals.¹²⁹ Despite the objections levelled by behaviourists, most humans can readily recognise most of these states in animals with whom they are familiar. And, remarkably, some animals not only recognise emotion among their conspecifics but in humans too. Dogs, for instance, know when humans are upset or arguing and react accordingly.¹³⁰ Pigeons can identify strong emotions in photos of human faces, above chance levels. One possibility is that this ability confers a survival advantage: that is, being able to read the intention or mental state of another creature before they act.¹³¹

As well as supporting the claim for shared states between humans and nonhumans, emotion also weighs against mechanomorphic explanations of behaviour, for emotions such as anger or frustration would be of no practical use to a machine: indeed, they would simply amount to a kind of malfunction. Moreover, if nonhumans do indeed experience emotions, then this not only indicates 'consciously felt' feelings, but also opens up another world of vulnerability for them, and with it more multifarious and nuanced ways in which their interests can be compromised.

Animal games and play

Animal play, like mindreading and deception, also suggests self-awareness in animals and the ability to read others' mental states. And, like emotion, it weighs

¹²⁶ Griffin, *Animal Minds*, p.275.

¹²⁷ Safina, *Beyond Words*, p.262.

¹²⁸ Ibid., pp.252-53.

¹²⁹ See for instance, Marc Bekoff, 'Animal Emotions And Animal Sentience And Why They Matter: Blending "Science Sense" With Common Sense, Compassion And Heart', in *Animals, Ethics and Trade: The Challenge of Animal Sentience*, ed. by Jacky Turner and Joyce D'Silva (London; Sterling, VA: Earthscan, 2006), pp.27-40. Notably, Carl Safina devotes a whole chapter to the expression of grief in elephants and other animals. Safina, *Beyond Words*, pp.66-74.

¹³⁰ Safina, *Beyond Words*, pp.202-03.

¹³¹ Griffin, *Animal Minds*, p.146.

against functional, mechanistic explanations of their behaviour. The fact that animals such as dogs and wolves spontaneously engage in pretence indicates not only high intelligence but also suggests that they are able to stand back from normal, everyday business, and to understand the difference between this and the shared 'drama' of a fictional situation, such as chasing, fighting, role-reversal and so on.¹³²

Aside from dogs and wolves, the playfulness of dolphins is very well known. There are cases of dolphins mimicking behaviour of their keepers, such as blowing bubbles to imitate an aqualung, or using broken pottery to scrape clean the sides of their own tanks.¹³³ In one remarkable case, a baby dolphin in a tank mimicked a visitor by pretending to smoke a cigarette underwater, using her mother's milk, which suggests a creative use of representation, akin to analogy.¹³⁴ Elephants, too, can be playful with one another and with people, pretending to charge humans and then running away, or making themselves look ridiculous.¹³⁵

It seems entirely reasonable to consider that nonhumans are consciously aware that they are acting out in this way, as is evidenced by the fact that calves have been seen to give a special signal when play is about to begin.¹³⁶ Thus, they not only know the difference between the ideas of 'be normal' and 'let's pretend' but can communicate those ideas to conspecifics too. And the fact that play is so prevalent among nonhumans seems to indicate that it is important to them, as recreation is to us: it fulfils them in some deep way.

Cognition and capabilities: continuum or hierarchy?

It appears that the more cognitive ethologists study nonhumans the more elusive the 'Holy Grail' of human exceptionalism becomes. Many or most of the things thought to indicate consciousness in other humans are also observable to varying degrees across the evolutionary spectrum, as we have seen. And, conversely, some of the things thought to indicate cognitive inferiority in nonhumans can also be observed to a degree in humans. Indeed, as Pluhar reminds us (in relation to marginal cases), some humans are inherently unable to achieve ordinary standards of rationality.¹³⁷

¹³² Safina, *Beyond Words*, p.144.

¹³³ Griffin, *Animal Minds*, p.229.

¹³⁴ Safina, *Beyond Words*, p.350.

¹³⁵ *Ibid.*, p.51.

¹³⁶ A French zoological study discovered that calves had a 'secret sign' (a special call coupled with a special run) that signalled to other calves that playtime was about to start. Jeffrey Masson, *The Pig Who Sang To The Moon: The Emotional World Of Farm Animals* (London: Jonathan Cape, 2004), p.147.

¹³⁷ Pluhar, *Beyond Prejudice*, pp.62-63.

Yet, despite this, the perception that humans are inherently superior to and more valuable than all other living beings stubbornly remains. Whatever nonhumans may be able to do, human life remains ‘special’ – but as yet it is not clear in what this specialness consists.

At the same time, it should be stressed that the objective here is not to show that there is no significant difference at all between human beings and other animals, nor thus to claim literal parity between the two categories. Indeed, crucially, a mainstay of the second half of the thesis here is that humans in general are very different beings from other animals, with enormously advanced intellectual capabilities. This includes advanced powers of abstract reasoning and creativity that are not apparent anywhere else in the animal kingdom, and which have enabled extraordinary achievements in the fields of science, mathematics, engineering, civilisation, philosophy, great art, music and literature and so on; by contrast, nonhumans do not have anything remotely equivalent. (I will also be considering human capacities and achievements from a pejorative viewpoint in later chapters.)

But this is not necessarily the issue here: we need not stoop to undermine the more modest capabilities of other species, nor vaunt our own powers over them; we do not have grounds to claim exclusive rights to the cognitive ‘middle ground’ where our abilities overlap with theirs, particularly when we have evidently been endowed with so much more than them. What concerns us is not how clever *we* are, nor whether only humans can use abstract reason or concepts, but whether nonhumans possess essential cognitive capacities of the kind and degree that are relevant to the question of *their* vital interests; that is to say, again, whether they are conscious of what is happening to them to a degree that make *their* experiences – including their suffering - matter to *them*. The arguments pursued and the evidence reviewed so far is that on every morally relevant criterion, it is beyond reasonable doubt they are indeed conscious in this way.

Special abilities

One could justly describe humans as the offspring of the most fortunate marriage in the whole of nature: that is, between high intelligence and high dexterity – both manual and lingual – through which we are capable of taking full advantage of and realising our cognitive powers in ways that no other animal can. However, *homo sapiens* may be the cleverest animal on the planet, but it rarely occurs to us that our prized mental superiority may be merely one kind of special ability among

many. Other species have 'special abilities' as well as us, but do not demand special status for it; they need not share our specific special characteristics.¹³⁸

Nonhumans may not be literally equal to humans in their cerebral or linguistic abilities, but some species appear to be otherwise enabled in ways that surpass the abilities of humans.¹³⁹ On the whole, however, we do not give fair weight to other animals' natural survival capabilities, perceptual capacities involving such things as ultrasound, sonar and electromagnetism, and even 'super-cognitive' senses that we can neither emulate nor even satisfactorily explain in ordinary, conventional terms.¹⁴⁰ Elephants, for instance can detect events over vast distances such as storms going on hundreds of miles away, or seem to 'just know' when an elephant or a human being has died, again at a great distance.¹⁴¹ Indeed, the number and range of anecdotal accounts now emerging concerning apparently supernormal prescience among certain animals would seem to indicate that conventional notions of animal cognition and of consciousness generally are in need of a radical review.¹⁴²

Capacity differences and consciousness

From the discussion so far, it seems that we can justly talk in terms of complexity of consciousness as a continuum, but not a predictable or simple one, as we saw in relation to brain capacity. It is, I think, questionable to assume that apparent high cognitive capacities necessarily equate reliably and directly to a greater or lesser 'amount' of consciousness, in the sense of self-awareness and sentience, let alone how much respect or worth is accorded to species or individual creatures. However, we cannot reasonably say that there is *no* distinction between very basic awareness in some creatures and the 'full blown' consciousness apparent in human beings;¹⁴³ we cannot simply ignore species differences altogether. As Lori Gruen argues, we need to take into account special abilities and incapacities in

¹³⁸ DeWaal, *Are We Smart Enough To Know How Smart Animals Are?*, p.5 and p.19.

¹³⁹ Safina, *Beyond Words*, p.283.

¹⁴⁰ For a good general-reader account of animal 'super senses', see for example, John Downer, *Supernatural: The Unseen Powers Of Animals* (London: BBC Worldwide, 1999).

¹⁴¹ Safina, *Beyond Words*, p.92. Safina recounts the extraordinary story of two dozen elephants from many miles away within a large reserve spontaneously converging on the house of a renowned human 'elephant whisperer' who had recently died, where they stayed for about two days, as though to pay their respects.

¹⁴² For a serious account see, for instance, Rupert Sheldrake, *Dogs That Know When Their Owners Are Coming Home: And Other Unexplained Powers Of Animals* (London: Hutchinson, 1999). Sheldrake pioneered the concept of 'morphic fields' to help to explain otherwise 'impossible' feats of cognition, communication and understanding which have been well documented among certain animals. It is interesting, also, that Safina (a serious scientist and researcher) devotes a chapter of his book to observations of this kind. See Safina, *Beyond Words*, pp.351-66.

¹⁴³ Tooley, 'Are Nonhuman Animals Persons?', in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, pp.360-61.

any moral equation.¹⁴⁴ At the same time, this is not our cue to see such differences as absolute indicators of value, nor indeed, I would contend, to ascribe value at all. We need to stop thinking of capacities as qualifications for a basic right to exist. (I will be coming back to these vexed issues in Chapter 5, including those relating to Martha Nussbaum's 'capabilities' approach, which was touched upon briefly in Chapter 2.)

But, even so, many will insist, what *is* it that makes humans different? What is it that makes us unlike nonhumans? In response, one would have to start by drawing a broad line between nonhumans' capacity to understand and work within phenomenal and practical givens in their world, and humans' capacity to conceptualise and invent things to work with in the first place; things that have no 'real world' counterpart until we bring them into existence: in short, animals deal with problems, humans create problematics. I think Johnson, quoted by Griffin, is correct to say that only humans have 'explicitly entertained mental representations',¹⁴⁵ which I take to mean the ability to deliberate for its own sake, to work with abstract concepts created for an express purpose. Such capacities have also been called 'domain general' abilities, including the ability to make transitive inferences and to generalise from particular cases. But even these may still be a matter of degree.¹⁴⁶

In relation to this capacity, Chardin famously said that an animal knows, but a human knows that it knows.¹⁴⁷ However, as I have claimed earlier in this chapter, there is some evidence that nonhumans can also know that they know, to a degree. By comparison, humans have evolved a crucial specialisation which has enabled 're-reflexive' consciousness. Thus (by analogy), whereas 'ordinary' reflexive consciousness could be likened to recognising one's own reflection in the mirror, 're-reflexive' consciousness is like looking in a barber's mirror held up behind us so we can see the back of our head. And if that mirror is held directly parallel to the first one, we can see not just our own reflections, front and back, but also apparently endless reflections of those same reflections, creating a kind of perceptual echo.

This 'barber's mirror' phase in our development is, I think, what is truly distinctive about human cognition: with the aid of these 'mirrors' (i.e., complex language and abstract concepts) we can reflect on our reflections recursively (seemingly *ad*

¹⁴⁴ Lori Gruen, 'Animals', in *A Companion To Ethics*, ed. by Peter Singer (Malden, MA; Oxford; Victoria: Blackwell Publishing, 1993), p.350.

¹⁴⁵ D. M. Johnson, 'Brutes Believe Not', *Philosophical Psychology*, 1 (1988), 279-294, cited by Griffin, *Animal Minds*, p.260.

¹⁴⁶ Sara Shettleworth, *Cognition, Evolution And Behaviour*, referenced by Driver, 'A Humean Account' in *The Oxford Handbook of Animal Ethics*, ed. by Beauchamp and Frey, p.154.

¹⁴⁷ Bernard Delfgaauw, *Evolution*, p.43.

infinitum). This allows us to see what we could not see otherwise, but at the same time, we cannot avoid seeing the mirrors themselves also reflected back at us, inseparable from our own image; thus (by analogy), abstract concepts provide a kind of illusion of objectivity in relation to the self, but are, ultimately, superimpositions upon repeated images (or iterations) of the self that makes them. Ultimately, that self becomes self-objectified and defined by its own secondary perceptions. Animals, by contrast seem not to have this kind of repetitious self-referral, nor the concept dependency that comes with it.¹⁴⁸

Overall, we humans have allowed human self-reflexive consciousness (as we experience it) to be not just one specialised form of consciousness but the one overriding and definitive notion of what it means, rather than taking it to be just one kind of 'experiential mode' among many others. Our reliance on language and 'inner explanations' makes it virtually impossible for us to experience or even to imagine states of consciousness that do not involve these things. In this regard, DeWaal considers that animals' senses constitute their reality – which is why we cannot fathom it.¹⁴⁹ We prefer, instead, to imagine that the only alternative is not to be conscious at all. In short, nonhumans have conscious selves, but only human beings have egos: that is, an objective self-image. (The phenomenon of the human ego and its relevance to this discussion will be considered in Chapter 8.)

On the basis of what has been cited and argued in this chapter (and with the caveats already granted), there is strong, even overwhelming, observational, experimental and evolutionary evidence which makes it entirely reasonable to believe that nonhumans in general *do* have phenomenally conscious experiences, *are* aware not just of what happens to them bodily, but of their own inner states, in ways that are morally relevant. The moral significance of this is that it greatly widens their palette of potential experiences and thus their interests; and, likewise, it increases in proportion the repertoire of harms that they can experience, beyond the infliction of 'mere pain' and suffering.

By contrast, as was strongly apparent in relation to pain, sceptics rely largely upon unsubstantiated assumptions about nonhumans' incapacities and a range of restrictive categories and arbitrary 'system requirements' in their attempts to prove that animals are not conscious beings; in short, again, they bring little to the table *but* scepticism. Thus, we are entitled to dismiss their case on essentially similar grounds to those outlined in the previous chapter.

¹⁴⁸ This is a familiar theme in Eastern thought and is increasingly evident in modern Western spiritual teachings. For an excellent example, see Eckhart Tolle, *A New Earth: Awakening To Your Life's Purpose* (London and New York: Penguin Books, 2005).

¹⁴⁹ DeWaal, *Are We Smart Enough To Know How Smart Animals Are?*, p.238.

At the same time, it is not disputed that humans display highly advanced and specialised cognitive capabilities which are not apparent in nonhumans, particularly in the form of *abstract* conceptual reasoning; but it *is* disputed that these are necessary conditions for conscious awareness. And, as I will go on to argue in the next chapter, it is this distinct advantage on our part – juxtaposed with the capacity for sentience in nonhumans - that forms the basis of our moral duties to other creatures.

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Chapter 4

The call to mercy, the obligations of power, and special duties to the innocent

I Does the power that we have over the lives of animals and their inherent 'innocence' entail a duty of mercy towards them?

A substantial part of the argument in previous chapters is the claim that humans have no substantive grounds for rights to commodify, use, abuse and kill nonhumans in the way that we commonly do in most societies on earth (see Chapter 1). However, given that we humans have most other species almost wholly in our power, we commonly tend to act as though this provides the justification to do with them as we see fit, regardless of their interests as sentient or even sapient beings. In a real sense, we live out the philosophy that 'might makes right'; we take our superiority over nonhumans as a licence to exploit and kill them for granted, as part of the natural order of things.

Against that background, there is a change of emphasis in this section of the study, focusing less on the question of the entitlement (or rights) of animals not to be harmed by humans in the multifarious ways that they are, and looking more at the question of whether humans can be said to *owe* non-harm to nonhumans - not merely in the sense of voluntarily abstaining from some form of bad habit, but rather as a matter of moral duty. On this view, it is not that we deserve credit for being 'good' by not harming animals but that we are morally deficient if we do *not* abstain from harming them. In other words, non-harm is not supererogatory or especially creditworthy but merely a baseline moral position.

An associated question here, also, is whether the bare fact of our power over most nonhumans and their concomitant inability to resist, defend themselves, or threaten us (at least in ways that few would recognise or respond to) creates obligations towards them in the same way that, as a case in point, young children or vulnerable adults create implicit moral duties upon us not to harm them and indeed to offer them special protection whenever we can. And if this comparison can justly be made, on what grounds, if any, do we continue to assume that there is some moral difference between the two cases?

The view I am taking in this chapter (and later on specifically in relation to natural law theory in Chapter 10) is that the motivation to act mercifully towards other beings is ultimately derived from our default, 'factory settings' morality, based on a recognition of shared and common goods which include those that transcend the species barrier, to which one can argue for the addition of an essential moral entitlement not to be harmed without good cause. Indeed, one can go further

and argue that it is those who cannot defend themselves who are most entitled to receive mercy. Or to go further still, it is the *most* defenceless who need us, who are powerful, to be *most* merciful towards them – who are in effect the *most* deserving.

Historical and philosophical accounts of mercy

Some have characterised mercy as the greatest of the virtues, which, according to Aquinas in the *Summa Theologica*, ‘takes precedence of other virtues, for it belongs to mercy to be bountiful to others, and, what is more, to succor others in their wants, which pertains chiefly to one who stands above. Hence mercy is accounted as being proper to God: and therein His omnipotence is declared to be chiefly manifested’.¹

What this means, according to a very helpful secondary interpretation, is that mercy implies:

a measure of grandeur and nobility, insofar as effective mercy is the generous relief of the needs and miseries of others out of one’s own abundance. We help others out of our store of wealth, our knowledge or skill or strength, when we see others in need of such help. In that sense, mercy is an act of condescension from one person who has a greater abundance of some good to another person lacking in some good.²

One must be careful, though, not to inflate mercy into some idealised form of moral action that pertains only to the highest of human moral ideals and aspirations, rather than, as I contend, merely acting proportionately towards others – doing what is needed in this or that situation. Certainly, mercy tends to be associated with traditional religious doctrine and ethics, but there have also been some notable secular contributions to this field which have helped to crystallise the most salient and technical aspects of the debate.

On the surface, there is broad agreement between the various accounts as to what we mean when we talk about mercy. However, it is also possible to distinguish between the formal, juridical dimension of mercy and its more general, moral dimension – two aspects which Jeffrie G. Murphy characterises as the criminal law

¹ Thomas Aquinas, *Summa Theologica*, tr. by Fathers of the English Dominican Province (Coyote Canyon Press, 2010), ST II-II.Q.30, Article 4; response to Objection 3. Kindle ebook.

² Robert Stackpole, ‘St Thomas Aquinas On Mercy’ Part I, *The Divine Mercy* (28 January 2014) <<https://www.thedivinemercy.org/articles/meaning-mercy>> [Accessed 23 December 2020].

model and the private law model.³ For the purposes of this discussion, I think that the two key aspects are efficiently captured, respectively, by Alwynne Smart, who discusses mercy in relation to legal process,⁴ and the classic exposition of mercy as a personal-political *quality* or virtue offered by Seneca (4 BC – 65 AD), in his classic work of Stoic philosophy ‘On Mercy’ (circa 55 AD).⁵ I will also be referring to Thomas Aquinas as he makes some very interesting and crucial points regarding our moral motivation to act in accordance with mercy.

While Murphy’s account tends to discuss the criminal law and private law models as parallel concepts, I see the former model as more limited, depending as it does on social norms, juridical process, and the relative status of the actors involved – where one party is a wrongdoer and the other party is in a position of authorised judgement over them. And while Seneca’s account initially seems more specialised, in that it focuses on the relationship between mercy and political power, it also seems to provide the broadest spectrum of ideas, many of which can be extended, as I will show, to moral situations involving ourselves and nonhumans.

Definitions of mercy

It may be helpful to offer a working definition of mercy before going on to discuss its philosophical significance. Different accounts emphasise different aspects of the concept, but they tend to share the idea of exercising restraint in exacting some form of penalty over others who may have wronged us or society in some way; and in some versions it is also associated with forgiveness and healing.⁶ In ‘On Mercy’, Seneca describes it as, ‘restraining the mind from vengeance when it has the power to take it, or the leniency of a superior towards an inferior in fixing punishment’.⁷

³ Jeffrie, G. Murphy, ‘Forgiveness And Mercy’, 1998, *Routledge Encyclopedia of Philosophy*, Taylor and Francis <<https://www.rep.routledge.com/articles/thematic/forgiveness-and-mercy/v-1>> [Accessed 23 December 2020].

⁴ Alwynne Smart, ‘Mercy’, *Philosophy*, 43:166 (1968), 345-359 <<https://www.jstor.com/stable/3750252>> [Accessed 20 August 2020].

⁵ Seneca, *De Clementia* (On Mercy), in *Moral Essays*, Vol. I: *De Providentia. De Constantia. De Ira. De Clementia*, tr. by John W. Basore (Cambridge, MA: Harvard University Press, 1928), *Loeb Classical Library* <https://www-loebclassics-com.ezproxy.uwtsd.ac.uk/view/seneca_younger-de_clementia/1928/pb_LCL214.357.xml> [Accessed 20 December 2021]. (Account log-in required.) Subsequent references are to this edition.

⁶ Murphy, ‘Forgiveness And Mercy’, p.1

⁷ Seneca, *On Mercy*, Book II, Chapter III, p.435 <https://www-loebclassics-com.ezproxy.uwtsd.ac.uk/view/seneca_younger-de_clementia/1928/pb_LCL214.357.xml> [Accessed 20 December 2021]. (Note: chapters are not shown in the English translation but the paragraph numbering in the facing Latin text in this volume suggests such divisions. I have followed this for convenience.)

Apart from the reference here to vengeance, the central assumption of elective restraint in the face of wrongdoing agrees with Alwynne Smart's account of mercy, which focuses on a juridical context:

When a man exercises mercy, what he does is acknowledge that an offence has been committed, decides that a particular punishment would be appropriate or just, and then decides to exact a punishment of lesser severity than the appropriate or just one. He might say to the offender, 'I'm letting you off lightly this time!'⁸

In Smart's account, such restraint seeks to 'fine-tune' the match between the specific character of a particular offence and the appropriate legal response. A key criterion here is the level of responsibility or culpability involved. And here Smart gives the simple example of two cases where a driver has run over and killed a pedestrian: in the first instance, the driver was drunk in charge of a car with faulty brakes and ran over somebody on a pedestrian crossing; in the second, the driver was sober, careful, driving a roadworthy vehicle, but could not avoid the pedestrian who ran out in front of them.⁹ While the outcome is the same in both cases, the former case warrants a more severe sentence because the driver was more directly culpable, while in the latter case, the opposite applies. And here Smart takes the view that mitigating factors are present to make it appropriate to give a lesser sentence: this is not 'letting him off lightly' but taking the view that 'to impose the full penalty would be to impose a total amount of suffering quite out of keeping with the gravity of his crime'.¹⁰

The judge is thus calibrating the response to try to serve justice while also respecting how much punishment the perpetrator deserves, which also factors in the effect of the punishment on the wrongdoer. And this seems to agree broadly with Seneca's account, which makes a distinction between acting mercifully and 'throwing the book' at the offender. In his words, 'Mercy has freedom in decision; it sentences not by the letter of the law but in accordance with what is fair and good'.¹¹

These two accounts present mercy as a matter of using discretion to apply the law correctly rather than arbitrarily. Mercy is proportionate moral action – what is needed in this or that situation, to make it 'right', to make it just. At the very least, it seeks to avoid compounding a wrong by acting disproportionately against a wrongdoer.

⁸ Smart, 'Mercy', p.350.

⁹ Ibid., p.347.

¹⁰ Ibid., p.348.

¹¹ Seneca, *On Mercy*, Book II, Chapter VII, p.445.

Additionally, to be virtuous, mercy must also be rooted in 'right reason' – i.e., the truth about the sufferings of others, and what is in fact the objective 'good' for the other whom we seek to help. This is contrasted with the idea of merely sympathising or showing pity.¹²

Interestingly, Seneca also hints strongly at the possibility of mercy being brought to bear not just on the guilty, but on wronged innocence:

Those who deserve punishment [...] invoke it [i.e., mercy], yet even the guiltless cherish it. Again, this virtue has scope even in the person of the guiltless, because at times fortune takes the place of guilt; and not only does mercy come to the rescue of innocence, but often of righteousness also.¹³

While Seneca does not elaborate on this point, he seems to be indicating that any of us could find ourselves wrongly accused of some crime or misdemeanour, so we cannot afford to assume that we will never have to throw ourselves on the mercy of someone acting in judgement over us, to be given the benefit of the doubt, or to plead on the basis of our previous good character.

However, this seems to muddy the water somewhat. In her paper Smart reiterates the point that, 'There is something odd and disturbing about saying we show mercy to those who have committed no offence', or indeed someone who did not know what he was doing at the time (although I do not think she quite unravels what is so odd about it, except to suggest that this might apply 'in a legal context where there may be a gap between legal guilt and moral guilt').¹⁴

This is a valid point: if A has been involved in an accident wholly outside A's control, in which B has been killed, and A is 'let off' by the court, it seems incorrect to say A received mercy, but rather that it is legal acknowledgement that they had not acted wrongly. As Seneca says, 'Mercy [...] declares that those who are let off did not deserve any different treatment; it is more complete than pardon, more creditable'.¹⁵ Thus, for the court to charge an accidental homicide in the same coin as murder would be a miscarriage of justice, not a legitimate juridical choice.

Practising mercy on nonhumans

It is worth noting that when we normally talk about being merciful towards other humans we are not usually talking about sparing their lives but rather exercising restraint over some kind of legitimate punitive action, which may in fact be quite

¹² Stackpole, 'St Thomas Aquinas On Mercy'.

¹³ Seneca, *On Mercy*, Book I, Chapter II, p.363.

¹⁴ Smart, 'Mercy', p.354 and p.358.

¹⁵ Seneca, *On Mercy*, Book II, Chapter VII, p.445.

mild. In the case of nonhumans, by contrast, we routinely authorise the lethal option, often with little forethought, and mostly by proxy, such as when we purchase the body parts of animals who have been killed by others on our behalf.¹⁶

However, for the purposes of the current discussion I am thinking more in terms of direct decisions to kill nonhumans, such as trapping or poisoning so-called ‘vermin’, or indeed any other deliberate act of killing such as boiling lobsters alive or hunting for ‘sport’. And here we tend to act as though the inconvenience or advantage to ourselves overrides the question of how we justify destroying a creature’s life in this way. It is, it seems, enough to belong to a particular species to warrant the death penalty. Whereas human criminals have to *do* something before they can be tried and sentenced, nonhumans for the most part merely have to *exist* to be in the firing line.

Given that, in relation to the examples above, we humans routinely hold the lives of nonhuman beings in our hands, our decisions concerning nonhumans would seem to be more deserving of careful deliberation than (most) situations involving other human beings, who normally need not fear that we will kill them; however, it is all too apparent that in everyday practice, the opposite case is the norm.

On this view, we have an obligation to be kind to those in our power: to take into account the fact of their subordination to ourselves. In the somewhat wider concept of mercy that I will be outlining below, it is apparent that the practice of mercy is intrinsically bound up with – and *presupposes* – power differentials between individuals, and on that basis, how we deal with those who are weaker than us.

However, mercy is not predicated on power or status in the way that our ideas of justice tend to be. (Crudely: you did or did not do x to me, therefore I can do or not do y to you, so that we are even.) It depends on a zero-sum concept of power; there can be no question of bargaining, or ‘demanding’ mercy; indeed, it can only be granted voluntarily. And while the person who is benefiting from mercy may have a right to expect it – if they are innocent – they cannot earn it. For this reason – i.e., because it takes into account the fact of disproportionate rights – mercy is potentially a powerful tool in the argument for the just treatment of animals.

¹⁶ The issue of consumers’ ‘passive’ complicity in animal slaughter is often raised in discussions concerning vegetarianism. The theosophist, C. W. Leadbeater (1845-1934), for example, argues: ‘Every person who partakes of this unclean food [i.e., dead flesh] has his share of the indescribable guilt and suffering by which it has been obtained. It is universally recognized in law that *qui facit alium facit per se* – whatsoever a man does through another he does himself’. Extract from ‘Vegetarianism And Occultism’, quoted in *The Extended Circle: An Anthology Of Humane Thought*, ed. by Jon Wynne-Tyson (London: Sphere Books, 1990), p.252.

What this moves towards is the idea that the onus is on us to apply our advantages to protect those weaker than ourselves, or, indeed, to protect them *from* ourselves. On this view, such direct moral duties towards nonhuman beings are based not on animals' imputed capacities or value which might accord them the status of being 'morally considerable' but *because* we are 'higher' beings who have power over them.

In the case of nonhumans, as we observed earlier, the requirement of mercy becomes more, not less, important. Even in normal human affairs it is recognised that to be unmerciful is to cause harm. Certainly, this point is made explicitly in Alwynne Smart's account when she says, 'The reason for advocating mercy is that it avoids suffering, and this is desirable whenever it can be morally justified'.¹⁷

The requirement to avoid or reduce suffering is also apparent in Seneca's account. He makes the point in various ways that mercy is exhibited as 'the peculiar mark(s) of a lofty spirit' – that is, it characterises those who refrain from causing unnecessary suffering by 'not cutting deeper than necessary'. To this he adds, 'It is the ignoble beast that is relentless'; and, 'To save life is the peculiar privilege of exalted station'.¹⁸

This is beginning to move towards the question not just of what mercy is, but of what it is 'for'. What is the point of it? If, as we have just seen, it is not just to be virtuous or to serve the law, but to avoid causing undue *suffering* wherever possible, one can see how this aspect of mercy is particularly relevant to the question of our moral relationship with nonhuman animals.

This is encouraging, but it has to be admitted that there is little in mainstream literature that applies the concept of mercy specifically to animals, although special mention must be made of Mark Rowlands, who sees the possession of mercy as central to the practice of most of the other virtues, and crucially important as a basis for our treatment of nonhumans.¹⁹ The prevailing view of mercy is that it concerns human beings only, because (in the conventional view) only human beings can put themselves in a position where they need or deserve mercy – that is, through culpable wrongdoing. By contrast, animals cannot be held responsible for 'wrong' actions, nor 'improved by punishment'.²⁰

¹⁷ Smart, 'Mercy', p.349.

¹⁸ Seneca, *On Mercy*, Book I, Chapter V, p.373.

¹⁹ From Mark Rowlands, *Animal Rights: Moral Theory And Practice*, Basingstoke: Palgrave, 2nd edn., referenced by Robert Garner, *A Theory Of Justice For Animals: Animal Rights In A Nonideal World* (Oxford and New York: Oxford University Press, 2013), p.70.

²⁰ Andrew Linzey, 'Why Animal Suffering Matters Morally' (chapter), in Andrew Linzey, *Why Animal Suffering Matters: Philosophy, Theology, And Practical Ethics* (Oxford and New York: Oxford University Press, 2009), p.35. [Oxford Scholarship Online, 2014] <<https://doi.org/10.1093/acprof:oso/9780199351848.003.0002>>.

This is a somewhat technical objection to applying the concept of mercy to animals. If it is the case that an animal cannot break the law, and therefore cannot deserve punishment, then by the same token an animal cannot be a recipient of mercy either; nor, indeed, can it be pardoned. However, I do not think this is insurmountable, and indeed I would consider that it is the innate limitations in the legalistic and commonsense conception of mercy which are at issue here rather than the validity of its wider, moral, application.

One possibility to consider here is that perhaps, after all, there is a commonly-held, unspoken belief that animals *can* do wrong and *can* deserve to be punished, even if we agree that they cannot commit a crime.²¹ Some may even beat their own pets to death for the most trivial of ‘offences’. And certainly, as was mentioned earlier, our treatment of ‘vermin’ or ‘pests’ – often small creatures that merely impinge on our living space – suggests that many people think that animals can deserve to be killed, or that they should not exist in the first place. Simply belonging to a particular species means that mere existence (‘wrongbeing’) and guilt (wrongdoing) are coterminous by default.

For this reason, then, I think we can make exceptions to the condition that there must be some *actual* wrongdoing for mercy in its broadest, moral sense to be appropriate. All that is really needed is for an empowered actor to consider that some wrong has been done, that it needs to be corrected and that it is their right to do it. And in relation to our common treatment of nonhumans the decision to apply lethal force is virtually automatic, to the degree that the question of whether it is morally right does not arise.

This is what we consider normal; what has to be done in this or that situation. Indeed, there are times when extending mercy to the supposedly undeserving or ‘obviously guilty’ may offend, or may even be seen as a threat to the interests of one’s social group: ‘Why do you keep feeding those pigeons?’; ‘Why won’t you put poison down for those rats?’ and so on. To try to pursue private-morality mercy can be difficult if one lacks status relative to others in the group. One risks ridicule, censure, or even rejection by one’s own community.

But, by contrast, having high status – and power – affords greater scope to act benignly over the lives of others;²² and, conversely, fewer excuses for inaction or indifference, for failing to be merciful. In Seneca’s words, ‘The quality of mercy, then [...] is indeed for all men in accordance with nature, but in rulers it has an

²¹ Sapontzis alludes to this question at the start of his paper: S. F. Sapontzis, ‘The Moral Significance Of The “Innocence” of Animals’, *Philosophy: Between The Species*, 3 (1): 6 (1987), p.13. <<https://digitalcommons.calpoly.edu/bts/vol3/iss1/6/>> [Accessed 15 December 2021].

²² Seneca, *On Mercy*, Book I, Chap III.

especial comeliness inasmuch as with them it finds more to save, and exhibits itself amid ampler opportunities'.²³

Power, as we have already observed, is central to the issue of duty, and this is certainly evident in the account given by Seneca, who focuses chiefly on the just and appropriate use of power on the part of political rulers. Indeed, for Seneca, to be merciful is the hallmark of just, wise, and effective leadership; it is to have something noble, or even divine in one's character. As he says, 'To save life by crowds and universally, this is a godlike use of power; but to kill in multitudes and without distinction is the power of conflagration and of ruin'.²⁴

Thus, for Seneca, tempering power with mercy is not seen as a nice and desirable thing to have in a ruler but an essential part of the job description; it is a matter of honour, almost akin to a kind of religious calling, rooted in a fundamental recognition of the privileged status that one enjoys oneself. To be merciful is to honour one's own authority in the world.

Crucially, to hold power, one must first hold great power over oneself (which Seneca compares to the queen bee's lack of a sting): indeed, the greater one's authority, the greater the need for self-restraint. On his view, this is not about undue restriction on power – or servility – but the appropriate condition of great office: that is, to serve the greater good, to use power over others for their own good rather than one's own.²⁵ Without this self-less self-possession, one is unworthy, lacking in some terrible way.²⁶ In this situation, one does not so much possess and use power but becomes possessed and used by it; in the unruly use and display of power one displays weakness, vanity, capriciousness, selfishness and despotism.

Crucially, Seneca draws a sharp distinction between responsible, legitimate rulers and mere power-grabbers, including those who have no compunction over using their superior strength against the weak and defenceless – in simple terms, those who are cruel. Thus, the distinction between a tyrant and a king is that 'tyrants are cruel to serve their pleasure, kings only for reason and by necessity'.²⁷ Restraint against subordinates, then, is the hallmark of nobility: 'But if the gods, merciful and just, do not instantly avenge with the thunderbolt the shortcomings of the mighty, how much more just is it for a man, set over men, to exercise his power in gentle spirit?'.²⁸

²³ Seneca, *On Mercy*, Book I, Chapter V, p.371.

²⁴ Ibid., Book I, Chapter XXVI, p.429.

²⁵ Ibid., Book I, Chapters VIII and XI.

²⁶ Ibid., Book I, Chapters XVII - XXI.

²⁷ Ibid., Book I, Chapter XI, p.391.

²⁸ Ibid., Book I, Chapter VII, p.377.

This last point offers a cue for us to pick up in relation to animals too, and ask how much more just it is for a human being, set over *nonhumans*, 'to exercise his power in gentle spirit'? In relation to nonhumans, we are in a real sense like gods or super-emperors, with *absolute* power over their lives; accordingly, those duties that apply to rulers apply more so to us all in relation to other creatures. And certainly, Seneca's subsequent development of the theme of cruelty becomes strikingly relevant here. For cruelty, passive or active, is inherent and normal in the various forms of exploitation that we visit upon animals. And cruelty, for Seneca, is 'an evil thing befitting least of all man, and is unworthy of his spirit that is so kindly'.²⁹

It is significant that Seneca identifies cruelty – 'the inclination of the mind towards harshness in punishment'³⁰ - as the opposite of mercy, rather than, perhaps, the bland antonym of 'unmerciful'. This gives us something concrete to work with in relation to our treatment of animals and forestalls the conventional association between mercy and culpable wrong, discussed above. For it seems likely that most people would not object to the use of the term cruelty in relation to nonhumans, even if they may balk at the use of mercy in this context.

Although Seneca's account seems to assume that cruelty is necessarily deliberate by definition, I would disagree that this must always be the case. Cruelty can take on a passive form (such as leaving animals without food or water, or not intervening to save them from harm or suffering) and may be considered as a form of wilful ignorance – 'turning a blind eye' to innocent suffering which we have the power to prevent.

At the other end of the scale, extreme cruelty – killing for the sake of it – is, according to Seneca, beyond this definition and is better described as savagery, or even madness.³¹ And it is interesting that he goes on to draw unfavourable comparisons between the wilful and arbitrary cruelty of human beings and even the most 'ferocious' and 'destructive' of wild animals; for even they, 'spare their kind, and [even among wild beasts] likeness forms a safeguard; but tyrants do not withhold their fury even from their kin; strangers and friends are treated just alike, and the more they indulge their fury, the more violent it becomes'.³²

It is encouraging that Seneca (who was a vegetarian)³³ refers a number of times to animal behaviour in order to lend contrast to a negative characteristic in human

²⁹ Seneca, *On Mercy*, Book I, Chapter XXV, p.423.

³⁰ Ibid., Book II, Chapter III, pp.435-37.

³¹ Ibid., Book II Chapter III, p.437.

³² Ibid., Book I, Chapter XXVI, pp.427-29.

³³ 'Ancient Greece And Rome: Lucius Annaeus Seneca', *International Vegetarian Union (IVU)*. <https://ivu.org/history/greece_rome/seneca.html> [Accessed 20 December 2020].

beings. He also observes that animals, too, are distressed by cruelty and harsh treatment, for instance when training horses or yoking cattle.³⁴ Yet, abstaining from cruelty is not primarily about practical considerations but ultimately about what is right, proper and humane. When we consider, for instance, the lowly, disenfranchised status of slaves in Roman society – which could be compared with that of animals - it is highly significant to read Seneca's observation:

It is praiseworthy to use authority over slaves with moderation. Even in the case of human chattels you should consider not how much he can be made to suffer without retaliating, but how much you are permitted to inflict by the principles of equity and right, which require that mercy should be shown even to captives and purchased slaves.³⁵

The key principle at work here, apparently, is that neither legal ownership nor the attribution of low status to other beings (a category which Seneca seems to interpret broadly a few lines further on, when he refers to 'the right common to all living creatures')³⁶ affords any entitlement to inflict undue suffering on them, however little we may value their lives.

Mercy in relation to compassion and pity

What comes through in many places in Seneca's account is his sense of humanity, and the weight he gives to the role of mercy in reducing undue suffering. However, while both Seneca and Smart concern themselves with this aspect of mercy, it is in the work of Aquinas that we see an attempt to account for the inner state or condition that gives rise to this concern in the first place. And for Aquinas the virtue of mercy can be defined simply as 'the compassion in our hearts for another person's misery, a compassion which drives us to do what we can to help him'.³⁷

Here we one can see parallels with the 'sense theory' account of moral motivation associated with Hume, and also with the underlying and ultimate 'knowability' of moral goods which are fundamental to natural law theory associated with Aquinas (discussed in Chapter 10 of this work). We may not easily be able to give an objective, definitive account of our moral sentiments, but they can nevertheless manifest and get our attention as 'moral feelings' in Hume's account. And for Hume, all minds are similar in their feelings and operations and sympathies. These feelings are activated when we see another person suffering or in distress,

³⁴ Seneca, *On Mercy*, Book I, Chapter XVI, p.405.

³⁵ Ibid., Book I, Chapter XVIII, p.407.

³⁶ Ibid., Book I, Chapter XVIII, p.409.

³⁷ Stackpole, 'St Thomas Aquinas On Mercy', p.1.

in the form of pity or anxiety on their behalf.³⁸ Thus, rather than cold, analytical ‘disapprobation’ we *feel* compassion – meaning, literally, ‘to suffer with’ another.

However, while Aquinas sees such compassion as a virtue in itself, Seneca sees no value in these feelings in themselves; he is particularly revolted by pity, which he sees as a kind of ‘weakness of mind that gets upset at the sight of others’ ills’, but which does not actually help the other person. As he puts it, the well-adjusted person ‘will bring relief to another’s tears but will not add his own’.³⁹

To be fair, though, Aquinas does distinguish between two kinds of mercy: affective and effective, where affective mercy is the emotion – the pity we feel for the suffering of another - and effective mercy is the desire to do something about it. We are able to feel this pity because we too are subject to such suffering ourselves. Aquinas calls this feeling *misericordia* – literally ‘having a miserable heart’ – both affectively and effectively for another’s misery.⁴⁰

On balance here I think Aquinas’s account is to be preferred because it is difficult to see how, without the painful impulse of pity or compassion, we can be truly motivated to help the person who is suffering. Is it really possible to have compassion in a ‘disinterested’ way, unless one has a personality disorder, where others’ emotions can be outwardly recognised but not felt? Indeed, it seems likely that the stronger one’s emotion about another’s situation, the greater the incentive to try and relieve that suffering, as one would if the pain were one’s own.

Conversely, without such a feeling, one might register another person’s distress, but without feeling compelled to help, beyond perhaps a kind of outward token gesture. The other’s plight remains unreal in one’s own consciousness; one is not really engaged with their suffering in an authentic way. And this, I think, is largely how most humans relate to most nonhumans and their suffering. Many people claim to abhor animal cruelty, and may even support animal charities, but most (statistically) do not feel strongly enough to prevent further suffering by giving up the consumption of animals and animal products. And such measured concern lacks the authenticity and urgency that proceeds from deeply-felt compassion, based on a truly immersive sense of how they must really be suffering, and what that suffering must be like for them.

³⁸ David Hume, *A Treatise Of Human Nature* (Wentworth Press, 2016), Book II, Part II, Section VII, para. 1. Kindle ebook.

³⁹ Seneca, *On Mercy*, Book II, Chapter III - VI, pp.437-39 and Chapter VII, pp.441-43.

⁴⁰ Stackpole, ‘St Thomas Aquinas On Mercy’, p.1.

Mercy as a prima facie moral duty, not an optional extra

The above observations I think at least highlight the apparent motive for behaving mercifully towards other beings – the compulsion to act for another’s good – but they do not perhaps specifically support the contention that we *owe* mercy to animals as a duty, rather than as a special dispensation for clemency. I will now return to this theme.

Earlier, I argued against the idea that mercy must *necessarily* pertain to situations where one is legitimately empowered to punish an offender. My contention is that mercy applies in *any* case where there is a power differential between two parties, i.e., where A is prepared to exercise power over B in some way but has recourse to some form of discretion. For instance (in theory at least), a school bully *could* decide to ‘let off’ his victim one day; an unscrupulous loan shark *could* decide to write off an extortionate or unaffordable debt.

But can one really show *mercy* to another being when A has no right to be in that position over B in the first place but has simply *assumed* power over them? Can one act mercifully when one is acting outside of accepted moral norms? Again, I would argue (not approvingly, I stress) that, regardless of how one has gained power over others, the fact remains that one is *empowered* nonetheless. The situation still involves a choice in how, or whether, A will exact some penalty against B, who is at present ‘at the mercy of’ A, who at this moment holds the whip hand over them.

Examples of this could be officials of an apparently legitimate organisation, such as the Gestapo⁴¹ or the Inquisition, who have been granted institutional power and authority to harm and kill other beings, however wrongheaded their justifications might be. In that situation, they too are in a position to choose between exacting the letter of the law that they recognise, or using their own conscience to determine whether the person really deserves such a fate, and whether a lesser outcome can be pursued in this case.

However, to express the idea of mercy in such questionable circumstances one could offer the neglected word ‘ruth’ or ‘ruthfulness’, although the awkward term, ‘non-ruthlessness’ might better convey the idea that the doer has merely

⁴¹As an interesting aside, Rosalind Hursthouse raises the ‘good Nazi’ question in her work on virtue ethics: i.e., if a person actively supports an evil and harmful ideology, would they then be disqualified from performing a virtuous act? Hursthouse suggests that a virtuous act or a quality would be negated if it were carried out by a wicked person. Rosalind Hursthouse, *On Virtue Ethics* (Oxford University Press, 1999), pp.146-47. See also Alasdair MacIntyre, *After Virtue: A Study In Moral Theory*, 3rd edn. (London and New York: Bloomsbury Academic, 2007), Chapter 12.

abstained from an arbitrary act of harm (i.e., a vice), rather than acted with due discretion in the dispensation of a legitimate penalty (i.e., a virtue).⁴²

Now this, I think, is exactly the situation we are in when we are in a position to harm, kill or spare the life of a nonhuman animal, for as I have argued elsewhere (see Chapter 1), we exceed our rights when we choose to harm or kill nonhumans, except in rare and extreme cases. If one seriously objects to the term ‘mercy’ in this situation, we can still properly say that we have the choice not to be *ruthless*. Whether we are legitimate powerholders or not, this makes no difference to the fact that it is in our gift to decide whether to cause another living being to suffer. And, conversely, no qualification or capacity is necessary on the part of the candidate for mercy other than their being innocent and having the capacity to suffer – both of which apply to nonhumans.

Broadly speaking, then, having the power to do the right thing, the thing that will save another from suffering, but to fail to do it when there is a clear choice to do so, is to act unmercifully, or ruthlessly, which is a form of improper action by default. In Schopenhauer’s view this is a matter of obligation or duty: thus, the simple omission of proper action towards another constitutes a wrong and a kind of moral debt.⁴³

This, I think, echoes and underline’s Hume’s idea of our duties of humanity (discussed in both his *Treatise Of Human Nature* and *Enquiry Concerning The Principles Of Morals*), which he characterises as a form of natural virtue akin to benevolence. For Hume, we have an *obligation* to be humane in this sense; and while he contrasts humanity with justice, he does not consider that humanity is an ‘optional extra’ or in any way inferior to justice and rights in terms of its role in giving rise to obligations towards those who need our help. Indeed, for Hume, the duties of humanity are especially important in governing, or rather constraining, relationships between unequals, which would otherwise fall outside the scope of justice.⁴⁴ (That is to say - to offer a brief ‘thumbnail’ interpretation – in circumstances where individuals of equal or equivalent status are able, or entitled, to defend or assert their own moral or legal interests, while also being bound to

⁴² In terms of dictionary definitions, both ‘mercy’ (derived from the French root *merces*) and ‘ruth’ (derived from the French root, *rue*) pertain to compassion and pity. However, we are more familiar with the term ‘ruthlessness’, to indicate a lack of pity or restraint. *The Pocket Oxford Dictionary Of Current English*, 7th edn., ed. by R. E. Allen (Oxford: Oxford University Press, 1984), p.460 and p.656.

⁴³ Arthur Schopenhauer, *The Basis Of Morality*, tr. by E. F. J. Payne (Jovian Press, 2017), Part III, Chapter VI, para. 10. Kindle ebook.

⁴⁴ Robert Shaver, ‘Hume On The Duties Of Humanity’, *Journal Of The History Of Philosophy*, 30:4 (1992), 545-556 (p.546), published by John Hopkins University Press
<<https://doi.org/10.1353/hph.1992.0083>>.

honour such interests in the form of duties towards others.) I will be returning to the subject of justice in Chapter 5.

From here we can begin to see how virtuous attitudes such as honesty, good nature, and pity for the unfortunate are all duties on the part of those who are empowered to act (potentially) for good, and how we get to the idea that the rich have a moral obligation to help the poor (*noblesse oblige*).⁴⁵ What I think this also implies is that the greater one's freedom to act, i.e., through the possession of power, the greater the debt that is owed if one is guilty of abusing that power.

Conversely (if such duties do exist), to be entitled to mercy could therefore be construed as a universal moral entitlement among those capable of suffering harm but incapable of asserting control over others – an issue that I want to expand upon in the second section of this chapter.

II Nonhumans as a special case on the basis of innocence and vulnerability: our negative and positive duties; 'the moral priority of the weak'

This is really an extension of the account outlined above except that it now shifts the emphasis from *dispensing* mercy as a duty on the part of powerholders to innocence as a special qualification for *receiving* mercy on the part of the powerless. It concerns the idea of special cases requiring more pressing moral attention, i.e., those involving beings of special vulnerability, those whom we might justly call not 'moral patients' but moral victims: those who cannot choose to harm others, but who by the same token cannot choose not to be harmed themselves. In their case, withholding mercy can be seen not merely as a lack of virtue but as a special, particularly heinous kind of wrong. If we believe – as most do – that it is utterly wrong to kill a child, that we do a greater wrong in taking innocent life, then we cannot without contradiction refuse to apply the same criteria to the life of a nonhuman, provided that we accept that both are subjects of a life at least. This then leads into the idea, as we shall see, that innocent beings deserve higher protection because they cannot defend themselves.

How do we define innocence?

Innocence is commonly used to describe one who has not transgressed laws or accepted moral norms in some way; in dictionary terms it is derived from *innocere* – i.e., non harmful.⁴⁶ It is also used to denote a form of *lack*, a

⁴⁵ Shaver, 'Hume On The Duties of Humanity', pp.546-49.

⁴⁶ *The Pocket Oxford Dictionary*, p.379.

deficiency, which may be used approvingly in the case of children, but pejoratively in the case of an adult who presents as childlike, naïve, and foolish.⁴⁷ And here there are connotations of vulnerability and defencelessness against stronger and more capable persons. And in relation to nonhumans this latter aspect becomes more decisively important, for here we are using the term innocence to denote not only a lack of capacity to do wrong, but an associated capacity to *be wronged* by others.

Reference is due here to Tom Regan's 'Innocence Principle', which takes the view that we have a *prima facie* duty not to harm the innocent. And here a distinction is made between those who can do harm but choose not to, those (nonhumans) who can do harm without 'meaning' harm because nature has made them that way, and those who do no harm because they are incapable of it. Regan dismisses the argument that only those who are capable of culpable wrongdoing (i.e., being guilty) can be innocent in the morally relevant sense. Such a position in effect creates an unjustifiable bias in favour of human moral agents over nonhuman moral patients, in effect rendering the actions of those nonhumans who can do no harm as morally insignificant because they do not act out of moral choice.⁴⁸ And in turn this seems to me incoherent in that it would seem to imply in effect that only those who can be guilty can be innocent, while the innocent cannot be innocent *because* they are innocent.

Regan's argument overlaps somewhat with the issues addressed by Steven Sapontzis in the latter's paper on animal innocence, which also challenges the Kantian view that only moral agents can themselves be entitled to moral consideration. And here Sapontzis takes the position that, essentially, whatever we might believe about animals' moral capacity, particularly in relation to predation necessary to their survival (which is discussed more fully in Chapter 1) this in no way provides us, who can choose not to kill, with any kind of licence to exploit them or cause them harm.⁴⁹

⁴⁷ The question of whether it is possible for adult humans to be, or to become 'innocents' or 'innocent' is discussed in three interesting papers by Munzer, Thomas and Wolgast, cited below. However, I feel that, as they focus almost exclusively on human beings (and indeed the latter two refer extensively to fictional characters), they are peripheral to the present question of the moral significance of the native innocence of nonhuman animals. See:

Stephen R. Munzer, 'Innocence', *Faith And Philosophy*, 29:2 (2012), 125-143.

Vaughan Thomas, 'Wolgast On Innocence', *Philosophy*, 69:268 (1994), 234-239.

Elizabeth Wolgast, 'Innocence', *Philosophy*, 68:265 (1993), 297-307.

⁴⁸ Tom Regan, *The Case For Animal Rights* (Berkeley and Los Angeles: California University Press, 2004), pp.294-95.

⁴⁹ S. F. Sapontzis, 'The Moral Significance Of The "Innocence" Of Animals', *Philosophy: Between the Species* 3 (1): 6 (1987), 12-15 <<https://digitalcommons.calpoly.edu/bts/vol3/iss1/6/>> [Accessed 15 December 2021].

While both Sapontzis and Regan makes a very tight and efficient argument against this view, one could also arrive at a similar conclusion by (again) emphasising the etymological derivation of ‘innocence’ – i.e., *in-nocere*, or harmlessness - rather than the common interpretation (tacitly accepted in Regan’s discussion), which takes innocence to mean the opposite of culpable wrongdoing (i.e., guilt). In fact, the correct antonym would be *noxious*, to indicate that which does or causes harm. Those who are innocent, on this view, are harmless by nature rather than competency or culpability, which means there are no grounds for excluding nonhuman moral patients from protection on this basis.

This presumption of non-harm as a clear moral obligation on our part against those weaker than us who mean us no harm also applies, arguably, to those nonhumans who could overpower us but do not present any immediate threat to us and just want to be left in peace. At the same time, though, Regan’s Innocence Principle recognises that some nonhumans can present a clear and present danger to us – what he calls ‘innocent threats’ – against which we are morally entitled to defend ourselves if necessary.⁵⁰ However, as Linzey counsels, on the rare occasions when we might need to assert such rights of self-defence we must act proportionately, aiming to thwart or disable rather than to kill, if possible.⁵¹ To this I would also want to add that I can see no reason why the same entitlement should not also apply to nonhumans acting in self-defence against unwarranted harm from human beings.

However, even if we can agree on what innocence really is, this still raises the question of what it amounts to morally. We normally consider that innocence, at least when it pertains to human beings being harmed, is a morally significant factor that adds to the seriousness of a wrong action. If we hear of innocent bystanders being deliberately mown down at a bus stop or shot indiscriminately, for example, we tend to feel a reflex sense of outrage; we feel quite strongly that those people had done nothing to deserve such a fate.

Such a reaction tends to be greatly intensified where the victims include ‘moral saints’ or those who have dedicated their lives to helping others. Not only were these persons innocent (in a neutral ‘non-wrongdoing’ sense) but were also in a way *beyond* innocence by giving of themselves for others for no personal gain;

⁵⁰ Regan, *The Case For Animal Rights*, p.295.

⁵¹ Andrew Linzey, ‘Why Animal Suffering Matters Morally’ (chapter), in Andrew Linzey, *Why Animal Suffering Matters: Philosophy, Theology, And Practical Ethics* (Oxford and New York: Oxford University Press, 2009), p.25. [Oxford Scholarship Online, 2014]
<<https://doi.org/10.1093/acprof:oso/9780199351848.003.0002>>.

they have tried to do good in the world and been rewarded with evil. It seems only natural to feel this way. But how can we process this morally?

One view is that it is only right and fair for truly charitable and selfless lives at least to be recognised if not rewarded. But in the examples above, they have, in a sense been robbed of any benefit for living a good life. And this conflicts with what we are likely to think of as equitable and just in normal circumstances: the moral rule of thumb that a person who gives freely should not be a victim of theft. Or in moral terms, that the kind and just person, even if they are not rewarded, should not suffer more than one who has less moral 'credit' than they have. And this concurs with Aquinas, who considers that the worst kind of misery (suffering) is what happens to those who are trying to do/be good in the face of overpowering evil – the undeserved sufferings and misfortunes of the innocent and the virtuous.⁵²

However, referring to victims of tragedies or disasters as 'innocent' implicitly indicates that they have not done anything wrong that is relevant to that particular situation. But we would not, presumably, be suggesting that the persons concerned had never done *anything* wrong in their entire lives. Yet we nevertheless take the attribution of innocence as read. It would seem highly inappropriate, for example, to discuss an indiscriminate aerial bombing of a city in terms of how many criminals were among the victims. It may be, perhaps, that within commonsense morality, the bare fact of being killed effectively 'nails off' the account of one's life - that 'he that dies pays all debts'.⁵³

If we do indeed have some innate sense of forbearance in the case of imperfect, ordinary people who have been made to suffer in some way, such compassion seems more appropriate still in relation to those who have done no wrong at all. In the case of young children, in particular, we tend to think that any harm that befalls them must perforce be a special kind of injustice. Not only did they not deserve such a fate, but they *could not* have done anything to deserve it. What has happened, however philosophically rash the word may be, appears to be simply *wrong*. It *should* not have happened.

We can get an even stronger sense of this when we consider the spontaneous public reactions to news of terrible crimes being committed against children. Those charged with such crimes typically need to be protected from the wrath of their fellow citizens. Some may be so incensed as to demand retributive and summary justice, even if the victim is unknown to them. Conversely, it is hard to

⁵² Stackpole, 'St Thomas Aquinas On Mercy', p.1.

⁵³ William Shakespeare, *The Tempest*, Act III, Scene 2, 132. *The Illustrated Stratford Shakespeare* (London: Chancellor Press, 1987), p.21.

conceive of any psychologically normal person enjoying or laughing at news of a child being abducted, tortured and brutally murdered.

On first view, then, it appears that most of us care deeply and instinctively about what happens to the innocent.

But if this is the case – if innocence somehow *requires* or ‘sparks off’ compassion for the victim – it then raises the question of why we unhesitatingly attribute innocence-derived protection rights to children but at the same time deny them to nonhumans. If we are right in our definition of innocence, and if it is the innocence of childhood that we are moved to protect, how can it *not* apply equally or at least similarly to both human and animal life? Indeed, why would it not apply *more* to nonhumans, who cannot be guilty of wrongdoing?

If innocence can be defined as a quality in itself, then it should be the same quality wherever it appears. It is not more ‘special’ if it appears in humans except by attribution; we have merely decided that it is. While, with reference to Regan and Sapontzis above, we have to concede that not all innocents are *ipso facto* absolutely harmless, I think we can still talk meaningfully about innocence as something absent, lacking or undeveloped to a maximal degree; and here I think we can reasonably talk of parity or equivalence between a human being and an animal in terms of what is lacking (i.e., harmfulness), even if we cannot talk likewise in terms of what is present. And in turn this suggests that there are no moral grounds from which to distinguish between the value of different species on the basis of innocence, and none for attempting to reserve special moral consideration for innocent humans while denying this privilege to innocent nonhumans.

However, in view of the prevailing resistance to this view, it may be the case that focusing entirely on innocence is to oversimplify the issue. And if we truly valued childhood innocence as a special and valuable quality, this would suggest that it is better to be a child than to be an adult – that it would be preferable to be like Benjamin Button and grow down from old age to youth and childhood,⁵⁴ before finally becoming extinguished by un-birth. But this seems to be contrary to the direction of life itself, the realisation of *telos*. It is hard to imagine that many would choose such an option even if it were possible.

It may be, then, that some other hidden factor is at work as well, which concerns us in the next section.

⁵⁴ See F. Scott Fitzgerald, *The Curious Case Of Benjamin Button* (1922).

Animals and children: 'us' and 'them'?

If, as it seems, we humans have a reflex-like, natural response to protect children from harm, actual or prospective, *as* a priority, and yet we seem not to assess innocence in a consistent way, what other special quality do we associate with childhood but not with adulthood? One possible answer is, simply, 'newness'. That is to say, we often perceive something brand new as somehow *better* than something old or worn in, such as new shoes, a new car, a new partner, or even fresh, virgin snow. Is it that we think of newness, virginity, being unsullied, having *potential* as somehow virtuous in itself? Is the promise of action somehow superior to the action that transpires in reality?

There could be a valid, if psychologistic, point here: what we think of as good is something that we are moving towards or aspire to. As humans (as many modern self-help gurus now try to make us see) we are more focused on what will happen next rather than what is happening now; there is something more important in the offing than what is going on now; indeed something so important that it effectively overrides what we are doing at present.⁵⁵ We engage our imagination and seem to live in some other place beside the now; and to be robbed of the future seems somehow worse than being robbed of the present.

By comparison, while animals arguably do have a sense of the future (as I have outlined in Chapter 3 concerning 'consciousness and capabilities') and their own continuity, they do not as far as we know, live in the future rather than in the present, but this is by no means a disability on their part, but rather a failure to partake of the dysfunction that apparently drives most of us.

Some commentators argue against crediting animals with the notion of a future, and with the capacity for progression. It has been observed that human children are 'works in progress', while animals reach only a certain point of development.⁵⁶ However, unfortunately, this kind of view (bound as it is to a concept of personhood) has been deployed to support the claim (in my view an illogical one, which is also discussed in Chapters 3 and 5) that animals cannot be moral agents and therefore cannot be 'morally considerable' beings themselves. But why is this distinction important?

As it stands at present, because children become 'us' eventually, we understand and nurture the connection between them and us. But in the case of nonhumans,

⁵⁵ See, for example, Eckhart Tolle, *The Power Of Now: A Guide To Spiritual Enlightenment* (London: Hodder & Stoughton, 1999). Tolle's work is also relevant to the discussion of the egoic self later in this thesis.

⁵⁶ See B. A. Dixon, *Animals, Emotion, And Morality: Marking The Boundary* (New York: Prometheus Books, 2008), pp.189-91. Dixon is referring to the moral and cognitive development of children in relation to the simpler emotive capacities of nonhuman animals.

for the most part, we do not: we see only their otherness. And if this is the case, the crucial factor is not so much innocence itself but their belonging to the same species as 'us'; children are an innocent version of us, not competitors for goods or value. Indeed, they are in part a projection of what we see in ourselves: how we believe we really are underneath, were it not for the vagaries and vicissitudes of adulthood, the descent into sin.

A useful thought experiment here (a variation on the one envisaged by Hume in his discussion of justice)⁵⁷ would be to imagine that children were not 'pre-adults' but a separate race altogether: a variant of *homo sapiens* that only ever reaches that most basic level of competence of, say, a ten-year-old. Would our protective attitude towards them be changed in any way? Would we still think of them as special beings, with a special calling upon our moral solicitude?

In Hume's view (which will also be discussed in Chapter 5) we would still owe 'these creatures' the duties of humanity, although we would not regard them as equals;⁵⁸ the focus, I think, would still be on their 'otherness' rather than their proximity to us. (Indeed, this is implicit in Hume's example.) We would be thinking about how 'we' should deal with 'them'. Their innocence may become a subject of fascination and condescension but would not, I think, motivate the automatic protection for them that it inspires in the case of our own children. In other words, what matters to us, ultimately, is not the protection of the innocent, or support for the vulnerable, but the assertion of *ourselves* as a discrete group of beings against 'the other' in whatever form they may appear.

What this view comes back to, again (as discussed in other chapters), is that there is something fundamentally self-centred and arbitrary, even hypocritical, in the way that we humans commonly relate to weaker and innocent beings. Nearly all societies sanction the most extreme cruelty and violence imaginable against the most innocent and defenceless of all beings – that is to say, nonhumans - which would make the majority of human beings subject to this charge. And this accords with Schopenhauer's view of the concept of 'double injustice': that is, not only failing in our duty to protect, but causing extreme suffering as well, or what he calls, 'treachery' towards the helpless and innocent.⁵⁹

As the ultimate powerholders we, after all, have the greatest potential (bar natural disasters) for causing suffering in the world – and also the greatest

⁵⁷ Hume considers that, in dealing with a species of rational but 'inferior' and weaker humans, we would not owe them justice as such (owing to their lack of power), but by the laws of humanity we would be bound to 'give gentle usage to these creatures'. See David Hume, *An Enquiry Concerning The Principles Of Morals* (<www.WealthOfNation.com> 2015), Section III, Part I, para. 17. Kindle ebook.

⁵⁸ *Ibid.*, para. 17.

⁵⁹ Schopenhauer, *The Basis Of Morality*, Part III, Chapter VI, para. 10.

potential to alleviate suffering through our own choices. Nonhumans, conversely, have the greatest potential to be occasioned such suffering. They are not capable of wilful harm, but are disproportionately capable of *being* harmed. So, in view of this disparity, should we not provide defence to the defenceless, or at least honour and practice non-offence?

On this view we act *ignobly* when we see weakness or vulnerability and exploit it where we could so easily recognise innocence and seek to protect it; our actions fall short of the potential for good with which we are endowed. As I have argued elsewhere (e.g., Chapter 9), we act out of our 'fallen' nature; we affect the world according to our collective failure to honour or achieve our own essential capacities as humans, our own *telos*. To resort to a useful archaism, it does not *behoove* us to act in this way: in effect, we *misbehave* when we fall short of our best capacities. And through our misbehaviour, we are, in effect, less than what humans can be, which I would contend implies less than we 'should' be.

And inevitably this begs the question of where this 'should' comes from. Why *should* we care about those weaker than us? In response to this, I think it is useful to consider the work of a number of commentators who have focused on the relationship between power and innocence (in the moral rather than legal sense) and argued that the former 'owes' something or is obliged in some special way to the latter. For Evelyn Pluhar, for example, as moral agents we have a greater obligation to help weaker (i.e., marginal human) individuals than those capable of normal, independent life,⁶⁰ and – while I may be going beyond what Pluhar directly says – I would interpret this to suggest that we owe the same to vulnerable nonhumans on that basis.

However, in relation to nonhumans specifically and explicitly, this view is most readily associated with thinkers such as Humphrey Primatt in the 18th Century and latterly the pioneering animal ethics theologian and philosopher, Andrew Linzey, for whom animals' innocence and vulnerability entitles them to more, not less, moral solicitude.⁶¹ For Linzey, animals (like children) are 'special cases' because their extreme vulnerability means that they do not fit into ordinary notions of virtue ethics, contracts, justice and so on. And for Linzey, what applies to children should also logically apply to animals.⁶² Animals, like children, are morally

⁶⁰ Evelyn B. Pluhar, *Beyond Prejudice: The Moral Significance Of Human And Nonhuman Animals* (Durham and London: Duke University Press, 1995), pp.160-61.

⁶¹ Linzey, 'Why Animal Suffering Matters Morally' (from Abstract of chapter), in Andrew Linzey, *Why Animal Suffering Matters: Philosophy, Theology, And Practical Ethics* (Oxford and New York: Oxford University Press, 2009). [Oxford Scholarship Online, 2014]
<<https://doi.org/10.1093/acprof:oso/9780199351848.003.0002>>.

⁶² Linzey, 'Why Animal Suffering Matters Morally', pp.35-36.

innocent and powerless, and this fact makes them subjects of a special trust, which in turn makes causing them suffering harder to justify.⁶³

For Primatt, too, the strong have a special responsibility to the weak: in effect, the ‘sacrifice’ of the higher for the lower, not vice versa. This contrasts sharply with Aquinas’ insistence that (human) rationality always trumps the value of ‘lesser’ beings.⁶⁴ Primatt summarised the position beautifully when he said: ‘The less they [beasts] are able to defend themselves against the abuse of human power, the more they stand in need of superior interposition on their behalf’.⁶⁵

Linzey takes this further still, arguing not only that the defencelessness of animals obliges us not to harm them - under what he calls the ‘ontologies of vulnerability’, which is akin to our duty not to harm children, the frail, elderly, and so on – but also that the case is as strong, or stronger, *for animals* as our institutional power to exploit and harm them in any way we choose is absolute. And for Linzey, this entails absolute moral responsibility for them.⁶⁶

Some may see this as going too far, but I think it is perfectly consonant with what has been said earlier concerning the correspondence between mercy, innocence, and the duties of humanity on the part of those who hold power: that is to say, if we accept that power entails duties of mercy towards the weak and vulnerable, then it seems entirely reasonable to extend this equation to argue that – taking arbitrary species bias out of the picture - the *higher* the power on the part of the agent and the *greater* the degree of harmlessness and vulnerability of the patient, the *greater* the incumbency of a duty of compassion and mercy to those patients concerned.

While this position can be defended in terms of logic and moral consistency – and importantly, for Primatt and Linzey, in theological terms - I think such views are also supported by a Humean notion that moral infractions are *felt* in some way rather than being derived directly from reasoning, at least in the first instance. Causing the innocent to suffer – or contemplating such suffering - causes us pain (or ‘*misericordia*’) ourselves. As Linzey notes, John Henry Newman’s 1842 sermon

⁶³ Andrew Linzey, ‘What Prevents Us From Recognising Animal Sentience?’, in *Animals, Ethics And Trade: The Challenge Of Animal Sentience*, ed. by Jacky Turner and Joyce D’Silva (London; Sterling VA: Earthscan, 2006), p.75.

⁶⁴ Linzey, ‘Why Animal Suffering Matters Morally’, p.29.

⁶⁵ Humphrey Primatt, *The Duty Of Humanity To Inferior Creatures*, abridged by the Rev. A. Broome, Founder of the SPCA (London, 1831; Nisbet), pp.74-75. Google Play ebook. <https://play.google.com/books/reader?id=XLxYAAAAcAAJ&pg=GBS.PA128&hl=en_GB> [Accessed 22 December 2021]. One can readily see echoes of this in Gandhi’s widely quoted declaration that, ‘The more helpless the creature the more entitled it is to the protection of man from the cruelty of man’. M. K. Gandhi, *An Autobiography: The Story Of My Experiments With Truth*, quoted in *The Extended Circle: An Anthology Of Humane Thought*, ed. by Jon Wynne-Tyson (London: Sphere Books, 1990), p.140.

⁶⁶ Linzey, ‘Why Animal Suffering Matters Morally’, pp.35-36.

said that, 'cruelty to the innocent excites moral abhorrence in us' and 'touches us to the core'; to do harm to the harmless, he says, is 'morally unconscionable'. Elsewhere in the sermon, Newman explicitly links cruelty to animals to the suffering of innocent children, both of which should revolt us morally.⁶⁷

For those who already *feel* these deeply-held sentiments in relation to animals, such strong statements will make perfect sense as they stand; they seem not to require – or be capable of – proof through further argumentation. However, we may well be truly, deeply morally revolted by such undeserved suffering – and it is likely that most people actually *are* to a degree – but this still doesn't quite crystallise why they *should* be. So, what is the underlying moral motivation here?

How does Innocence necessitate respect – a condition of 'owing'?

The question could be rephrased slightly to ask, how can the innocence of A (if A is indeed innocent) 'compel' B to give A something in return, even ordinary respect? Innocence does not seem to have any real substance: you cannot go and pay for groceries with innocence or bargain with it or threaten others with it – 'I am innocent so you'd better pay up!'; it has no generally recognisable currency, beyond what we might call 'goodwill': 'I don't have to pay you X, but I am a generous person and willing to do you a favour, so I will pay you X'.

In asking this question, it seems that there are issues in common with the previous discussion of mercy: that is, how being in a position to grant mercy requires that one actually *does* grant mercy where appropriate, unless there are exceptional reasons for not doing so: for example, if releasing a known serial killer on parole would endanger others. And the useful point that both Smart and Seneca have made here is that mercy is not the same as kindness (or goodwill): it is no more than what is due to the person 'in the dock' and from the person 'on the bench'.

Thus, if we treat animals compassionately it is not that we are going the extra mile or doing something superogatory but merely recognising what is incumbent on us as beings of higher capacity (including claims to moral superiority) to dispense to those over whom we have power. And if we can agree that nonhumans are indeed inherently innocent (*cf* Regan) in the morally relevant sense, I would deduce that they cannot be entitled to less mercy than a person who *has* done wrong but is still considered deserving of mercy. Likewise, Sapontzis remarks on

⁶⁷ Newman (1842), quoted in Linzey, 'Why Animal Suffering Matters Morally', p.40.

the inequality between innocent animals being tortured or killed in any way one chooses, while the worst of human criminals are protected by legal/moral rights.⁶⁸

What I believe would apply if there *were* a level moral playing field, where the concepts of mercy and innocence were applied consistently regardless of species, is that it would always be appropriate to extend mercy (or 'ruth') to nonhumans by default: that is, we *owe* it to them. This is perhaps easier to explain in terms of the notion of *negative* owing. We could say of an innocent being, 'I owe you nothing', but in the sense that I owe you literally the same 'nothing' that you extend to me – that is, to respect non-interference, non-harm, non-killing. This could be seen as a form of tacit 'natural law' agreement between unequals, or a background state of moral equilibrium which we disturb and dishonour when we cause or allow wanton suffering to the innocent.

On this view, innocence could also be seen to create a kind of vacuum in the interaction between two parties. Innocence, defined as a lack or absence, and particularly the capacity to be harmed, does not so much 'push' or exert moral influence over the other but rather 'pulls' or draws it from them.

This is perhaps most apparent in our responses to cases of extreme social inequality: for example, destitute children being forced to drink filthy water while just down the road a golf course wastes enormous quantities of clean water on its greens but will spare none of it. For anyone capable of moral feeling it is difficult to contemplate such glaring inequality without deep discomfort (a 'miserable heart') for the children and, probably, anger towards the golf club. There is a 'common-sense' that something needs to be done to redress the balance of power, to try to quell this moral discomfort. And if such feelings are shared they provide the impetus for proportionate action (what we could regard as 'mercy by proxy'), such as charitable support, protest, or indeed social change.

The above is an extreme (but not unrealistic and not uncommon) scenario in relation to human beings. However, in relation to most nonhumans under human control and exploitation this is the norm, and yet mostly goes unnoticed. We do not merely deny nonhumans what would be theirs by 'right' (as a natural good provided by nature) in natural law theory, but we take or prevent access to what little they are able to procure for themselves, even though their need may well be greater than ours. Collectively, in relation to nonhumans, we are very much like the golf club in the example above.

This then leads into the question of how and when we are obliged to observe the principles of non-harm (remembering that *ahimsa* is not a passive but an active,

⁶⁸ S. F. Sapontzis, *Morals, Reason, And Animals* (Philadelphia; Temple University Press, 1987), p.63.

dynamic principle) in the form of mercy towards innocent beings, and indeed how far we should extend our ministrations. My view is that, where we have power over innocent and defenceless nonhumans who have been, or may be, harmed by our activities or our indifference, we *always* have a duty to try to mitigate this impact under the aegis of mercy, for which, as empowered beings, we are the agents by default.

Ultimately, I think, our response needs to be conceived in terms of a kind of moral 'triage'. That is to say, we have a standing duty towards all actual and potential candidates for mercy – or moral patients - but we are obliged to attend to give moral priority to those most in need of our help at this moment: those most vulnerable to suffering, those least able to help themselves – which is to say, the most innocent - regardless of any arbitrary assessment of their value or moral considerability that we might be inclined to make of them on the basis of species.

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Chapter 5

Capabilities, rights and *telos*: incorporating nonhumans into justice theory

Much of the focus of the preceding chapters has been upon demonstrating that there is no basis upon which humans can justly assume rights to harm, kill and exploit nonhumans, regardless of their instrumental value to ourselves. However, the obverse aspect of the case is the 'positive capacities' view, which recognises animals' abilities to act and interact with the world in the pursuit of their natural interests, desires and purpose. This then raises questions concerning not just the notion of a basic right to life, but a right to live in accordance with one's own nature, not the nature of another species. This also leads back to the issues raised in previous chapters concerning the *value* of animal lives in relation to human life: on what basis do we make claims that this life is 'worth' more or less than that life? And on the back of this, on what basis do we claim authority to use such evaluation to decide not just whether nonhumans live or die, but what we may do with them while they are alive?

Merely by using animals for our own benefit, however benignly we may think that we are doing this, we act against (or even negate) their specific evolutionary characteristics and needs, the very things that would enable them to flourish as the beings that they are. It is not merely a question of bad treatment but of *wrong* treatment. The animals do not belong in the circumstances of exploitation where we locate them (in factory farms, laboratories, fisheries, and so on); we create a false environment and force-fit them to exist within it. In separating them from nature, we uproot them from the evolutionary matrix in which they have grown; indeed, our misuse of animals is a harm in itself, not merely the arena within which harms occur (see Chapter 2). Bernard Rollin, for instance, considers that violating the nature of animals in this way can in some significant ways be worse than killing them.¹

In previous chapters, various arguments have been offered for the duty to protect animals from harms, against those who still insist that animals do not deserve such consideration. But to go beyond these basic (and theoretical) entitlements, what should our wider moral position be in relation to animals? We can with some justification speak of their natural entitlements, as indicated above. But can we, as many do, talk in terms of animal *rights*? And, furthermore, can we – as very few do – talk in terms of *justice* for animals?

¹ Bernard E. Rollin, *Animal Rights & Human Morality* 3rd edn. (New York: Prometheus Books, 2006), Chapter 1, Section 33, para. 7. Kindle ebook.

I Rights and capabilities

Rights revisited – a basis for morality or ‘nonsense on stilts’?

In Chapter 1 we considered common and basic or vital interests on the part of sentient nonhuman beings, which can be summarised as the preservation of life and bodily integrity and freedom from interference – interests which cannot legitimately be overridden by humans’ *non-vital* interests in cases of conflict. However, some philosophers go a step further and consider that sentience itself is sufficient for animals to be included within the spheres both of morality and justice.² In the 18th century, John Lawrence said, ‘By a recurrence to principles, it will appear, that life, intelligence and feeling, necessarily imply rights. Justice, in which are included mercy, or compassion, obviously refers to sense and feeling’.³ Similar sentiments have been echoed latterly by Martha Nussbaum when she says, ‘Animals are subjects of justice to the extent that individual animals are suffering pain and deprivation.’⁴ This is also echoed by Christine Korsgaard when she says, ‘The fact that someone can suffer enough to make what happens to him matter, is enough to make what happens to him matter equally, if anything matters at all’.⁵

Certain other commentators recognise the importance of sentience but restrict the degree or kinds of rights that may be entailed by it. Robert Garner, for instance (who argues from a non-ideal, gradualist position), considers that arguing from sentience ‘goes a long way’ towards the abolitionist ideal (i.e., the cessation of all forms of animal exploitation) and that, on balance, this provides animals with moral standing, but disagrees with the principle (associated with Gary Francione) of according *full* (which I interpret to mean human-equivalent) moral rights to animals on the basis of sentience, which he thinks is to go too far.⁶ However, in my view, sentience is a sufficient condition for rights of non-harm, while abolition is a necessary condition for such minimal rights to be achieved.

To be clear, I am using the term ‘rights’ here to indicate the protection of the most basic, vital ‘life, limb and liberty’ interests common to all sentient beings - not

² Robin Attfield and Rebekah Humphreys, ‘Justice And Non-Human Animals’, Part I, *Bangladesh Journal Of Bioethics*, 7:3 (2016), 1-11 (p.3).

³ John Lawrence, *A Philosophical And Practical Treatise On Horses, And On The Moral Duties Of Man Towards The Brute Creation* (London: Longman, 1796), p.119, *Internet Archive* ebook <<https://archive.org/details/b2874570x/page/n5/mode/2up>> [Accessed 14 March 2022].

⁴ Martha Nussbaum, *Frontiers Of Justice: Disability, Nationality, Species Membership* (Cambridge, MA: Harvard University Press, 2006), p.357. (Note: references herein are to ‘Beyond “Compassion And Humanity”: Justice For Nonhuman Animals’, which is Chapter 6 of Nussbaum’s book.)

⁵ Christine M. Korsgaard, *Fellow Creatures: Our Obligations To The Other Animals* (Oxford: Oxford University Press, 2018), p.148.

⁶ Robert Garner, *A Theory Of Justice For Animals: Animal Rights In A Nonideal World* (Oxford and New York: Oxford University Press, 2013) p.85 and p.135.

claiming supererogatory, *human-equivalent* rights for them.⁷ Such minimal – indeed, *irreducible* – rights can be regarded as a benchmark below which rights cannot be said to exist at all; thus, to restrict such rights to those granted full moral standing is, in effect, to lock out nonhumans from rights altogether. This was expressed rather more epigrammatically by Frances Power Cobbe when she said, ‘The minimum of all possible rights is to be spared the worst of all possible wrongs’.⁸ On this basis, I think that it makes no sense to demand that animals must qualify for full membership of the human moral community in order not to suffer egregious harms. And to honour such elementary entitlements merely requires ‘non-doing’ on our part; that is, to simply ‘leave them alone’; or, as Pluhar suggests, to treat them as we would citizens of other countries, who lie beyond our jurisdiction.⁹ This does not mean compromising our own rights, as Rollin points out, any more than does respecting the rights of other human beings.¹⁰

Nevertheless, the notion of animal rights in the commonly accepted sense remains philosophically problematic. Some philosophers avoid the concept altogether,¹¹ while others attempt to dismiss it with the kinds of arguments we encountered in Chapters 2 and 3, which insist that nonhuman animals lack the cognitive capacities required for coherent experiences that can matter in any moral sense.¹² A familiar and related objection to the idea of animal rights utilises the putative condition that only moral agents (i.e., fully autonomous rational beings) capable of understanding and acting upon independent moral judgements and decisions (including claims against others) can possess moral rights: and this

⁷ Steven Wise identifies four kinds of rights: Liberty; Claim: Power: Immunity (including freedom from slavery or torture). Steven M. Wise, ‘Entitling Non-Human Animals To Fundamental Legal Rights On The Basis Of Practical Autonomy’, in *Animals, Ethics And Trade: The Challenge Of Animal Sentience*, ed. by Jacky Turner and Joyce D’Silva (London: Sterling, VA: Earthscan, 2006), p.87. Tom Beauchamp also offers a basic set of animal rights using four main categories: rights to non-maleficent treatment; rights to have basic needs met; rights of nonconstraint; rights (obtained) from human agreements. See Tom L. Beauchamp, ‘Rights Theory And Animal Rights’, in *The Oxford Handbook Of Animal Ethics*, ed. by Tom L. Beauchamp and R. G. Frey (Oxford and New York: Oxford University Press, 2011), p.212.

⁸ Quoted in Henry S. Salt, *Animals’ Rights In Relation To Social Progress* (New York: Macmillan & Co., 1894), p.76. *Internet Archive* ebook
<<https://archive.org/details/animalsrightsc00salt/page/n7/mode/2up>> [Accessed 19 April 2022].

⁹ Evelyn Pluhar, *Beyond Prejudice: The Moral Significance Of Human And Nonhuman Animals* (Durham and London: Duke University Press, 1995), p.168.

¹⁰ Rollin, *Animal Rights & Human Morality*, Chapter 1, Section 34, para. 4.

¹¹ This may arise from a general scepticism about the existence of moral rights *per se*. Singer, for instance, thinks of rights language as a ‘convenient [and valuable] form of political shorthand’. See Peter Singer, *Animal Liberation* (London: The Bodley Head, 2015), p.8.

¹² Michael Tooley summarises the bases of the main arguments as: contractarianism: moral agency; absence of beliefs and desires. Michael Tooley, ‘Are Nonhuman Animals Persons?’, in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.348.

category of 'rational beings' pointedly excludes nonhuman animals, as is notably apparent in the thought of Kant, Aquinas and Descartes, for example.¹³

However, various animal ethicists have highlighted the inconsistency of this position, pointing out, essentially, that using such criteria to exclude nonhumans from basic rights would also exclude many human beings as well, including children and people with disabilities.¹⁴ In particular, it is inconsistent to demand that nonhumans be able to claim or forgo their rights themselves when, again, we do not expect this of young children or dependent adults.¹⁵ In other words, possessing a right is not dependent on being in a position to exercise that right.¹⁶

Indeed, when it comes to human interests, even consciousness itself is waived as a requirement for rights, as is evidenced by the fact that judges award legal rights to fertilised human ova or anencephalic babies, while legislation fails to recognise animals as fully cognitively aware, simply because they are not human. Incredibly, legal bodies that would not recognise personhood in nonhumans are prepared to grant arbitrary rights (what Beauchamp calls 'legal fictions') to things such as ships, companies and religious artefacts.¹⁷

Such examples show how the conventional 'rights' view can be problematic, even in relation to human beings. However, this need not impinge on the position maintained in this work (again, see Chapter 1) as the case can be made negatively, by reference to human *non-rights* (over nonhumans); one need not argue for positive animal rights as such to support the claim that animals should be spared harm and be treated with due respect,¹⁸ but rather demonstrate that humans can have no legitimate basis for rights of exploitation or interference over their lives. From this standpoint, one avoids the problematic notion of seemingly adding to or claiming for the animals something that they do not naturally possess. From an abolitionist position (as I interpret Francione's account), negative rights may ultimately obviate the need for making a case for positive ones in the first place.¹⁹

It should be stressed here that the negative position entails actual rights, but in an *indirect*, passive sense: i.e., rights of immunity from the actions of others, which

¹³ Attfield and Humphreys, 'Justice And Non-Human Animals' Part I, p.2.

¹⁴ Steven M. Wise, 'Entitling Non-Human Animals To Fundamental Legal Rights On The Basis of Practical Autonomy', in *Animals, Ethics And Trade*, ed. by Turner and D'Silva, p.89.

¹⁵ Robert Garner, *A Theory Of Justice For Animals: Animal Rights In A Nonideal World* (Oxford and New York: Oxford University Press, 2013), p.96.

¹⁶ Beauchamp, 'Rights Theory And Animal Rights', in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.102.

¹⁷ Wise, 'Entitling Non-Human Animals', in *Animals, Ethics, And Trade*, ed. by Turner and D'Silva, p.95 and p.98.

¹⁸ Attfield and Humphreys, 'Justice And Non-Human Animals', Part I, pp.8-9.

¹⁹ Gary L. Francione and Anna Charlton, *Animal Rights: The Abolitionist Approach* (Exempla Press, 2015), Principle 1, Section 8, para. 15. Kindle ebook.

are due to any living being capable of experiencing benefits or harms²⁰ – what Tom Regan calls ‘no trespassing’ rights: a presumption against harm.²¹ This rests on the double-sided nature of rights (both ‘to’ and ‘against’) which means that rights can be translated into obligations:²² thus, one party having rights X *correlates* with another party being owed duties Y, and vice versa. Essentially, if we have a duty to treat animals well, it follows that they have a right to be treated well.²³ Or again, as Garner inflects the point, if we violate an animal’s rights, we do not infringe a privilege but deny them what they are owed as a duty.²⁴

The logic behind the correlativity thesis also, arguably, negates the putative condition that only moral agents (those able to understand and make moral decisions) can make moral claims. For, where negative or passive rights are implicitly identified, no positive action is necessary on the part of the beneficiary of those rights – i.e., they need not actively claim or defend them, because they do not require anything to be granted or negotiated by the other party. It is also possible to feel duty-bound to act on the basis of charity or benevolence (i.e., ‘imperfect duties’); and here, too, sometimes charity requires that we *refrain* from doing something that might harm others.²⁵

This, in turn, helps to support the position outlined by Steven Sapontzis, that, while there is a difference between ‘having an interest’ and ‘taking an interest’ (as a condition for having rights), one can nevertheless have interests (in basic needs being met) without necessarily being aware of what they are. Likewise, knowing our rights is not a condition for having rights – and one can suffer loss without necessarily being aware of it.²⁶

It is apparent, nevertheless, that the conventional rights view prevails, both philosophically and in common practice, based as it is upon the condition that the potential beneficiary must earn or qualify for rights against certain arbitrary criteria specified by those who are in a position to make such stipulations. However, as has been argued in previous chapters, such criteria inevitably tend to

²⁰ Brenda Almond, ‘Rights’, in *A Companion To Ethics*, ed. by Peter Singer (Malden, MA; Oxford; Victoria: Blackwell Publishing, 1993), p.264.

²¹ Tom Regan, ‘Sentience And Rights’, in *Animals, Ethics And Trade*, ed. by Turner and D’Silva, p.79.

²² Beauchamp, ‘Rights Theory And Animal Rights’, in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.200 and p.206.

²³ Ben Mepham, ‘The Ethical Matrix As A Decision-making Tool, With Specific Reference To Animal Sentience’, in *Animals, Ethics And Trade*, ed. by Turner and D’Silva, p.140.

²⁴ Garner, *A Theory Of Justice*, pp.93-94.

²⁵ Christopher W. Morris, ‘The Idea Of Moral Standing’, in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.271.

²⁶ S. F. Sapontzis, *Morals, Reason, And Animals* (Philadelphia: Temple University Press, 1987), p.138 and pp.170-72.

favour the interests of human beings and dismiss the interests of other species simply on the basis that they are not human.

Telos and the ‘capabilities approach’

A plausible attempt to counter such patent anthropocentrism can be seen in the form of the ‘capabilities approach’ associated with Martha Nussbaum. This shifts the focus away from differentiation according to species and towards respect for innate, natural capacities of individual beings, thus offering a non-arbitrary basis from which to assess their individual interests and welfare. Essentially, for Nussbaum, this combines Kantian elements (each being as an end in itself, not a means) and neo-Aristotelian elements (each being having a special set of capabilities which they seek to fulfil).²⁷

The latter point relates to *telos*, which denotes innate purpose or functions peculiar to any given entity or being, and a being’s drive to realise its nature by fulfilling those functions. Rollin relates this to Hobbes and Spinoza and the concept of *conatus* – a creature’s drive to preserve its own integrity and unity. While, for Rollin, *telos* is not ‘sacred’, fulfilling *telos* is the realisation of the good of one’s being.²⁸ Similarly, Henry Salt considers that, ‘To realise one’s true self is the highest moral purpose – in both animals and man’.²⁹

Likewise, too, for Nussbaum a sentient being is entitled to pursue its own good, to flourish as the sort of thing that it is, and the onus is on humans to protect and promote that good in animals, as we are able to make that choice. On this basis we are required, first, not to obstruct a creature’s attempt to flourish by violence or cruelty, and second, to support its efforts to flourish in positive ways.³⁰ In other words, not to frustrate or block *telos* in any way is to work against the good. Thus, as Nussbaum stresses, no sentient animal should be cut off from the chance of a flourishing life. This entails direct obligations of justice to animals and respect for each individual creature in its own right.³¹ They should be treated as ends in

²⁷ Martha Nussbaum, ‘The Capabilities Approach And Animal Entitlements’, in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.237.

²⁸ Rollin, *Animal Rights & Human Morality*, Chapter 1, Section 25, para. 13 and Section 37, para. 3.

²⁹ Henry S. Salt, *Animals’ Rights In Relation To Social Progress* (New York: Macmillan & Co., 1984), p.10. *Internet Archive* ebook
<<https://archive.org/details/animalsrightsc00salt/page/n7/mode/2up>> [Accessed 15 March 2022].

³⁰ Nussbaum, ‘The Capabilities Approach’, in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.243 and p.238.

³¹ Martha Nussbaum, *Frontiers of Justice: Disability, Nationality, Species Membership* (Cambridge, MA: Harvard University Press, 2006), pp.349-51.

themselves who matter in themselves. They do not need to be able to have duties to humans in order to be recipients of duties from us.³²

Moral standing

While *telos* is used in a specific way in classical philosophy, it overlaps with and derives from the notion of vital interests, discussed earlier, which Andrew Cohen calls ‘morally enfranchising qualities’, in that they can be used to argue for moral standing.³³ And for Rollin, *telos* is knowable: it can be deduced from observation and science, and in turn can reveal what a creature’s essential needs are.³⁴ Thus, an individual being has moral standing if we have reason to believe that ‘it makes a difference, morally, how that individual is treated, apart from the effects it has on others’.³⁵ For Korsgaard, ‘Our reason for including animals in the moral community is just that: we recognise them to be fellow creatures, with a good of their own, just like ours’.³⁶

In other words, the fact that animals are similar in important respects to humans is enough to ground moral standing for them, and obligations (of compassion) for us. This is not to argue for equal moral standing, but it nevertheless weighs against presumptive notions of human exceptionalism.³⁷ On this basis, it is not just that they have moral standing but that their flourishing or good is valuable in itself.³⁸ Here, Morris provides the useful insight that while there can be degrees of moral standing linked to a creature’s inherent capacity, there is a basic threshold which provides that standing in the first place.³⁹

On first view, the capabilities approach seems to offer an equitable and elegant way of determining what truly matters in the lives of other sentient living beings, and why this should matter morally to us, who have power over them. However, it soon becomes apparent that it harbours similar (if repackaged) problems of inconsistency and conditionality that attend the traditional species-rights view outlined earlier. In effect, it leaves the way open for conventional notions of species hierarchy as a scale of objective values, as I will outline below.

³² Nussbaum, ‘The Capabilities Approach’, in *The Oxford Handbook of Animal Ethics*, ed. by Beauchamp and Frey pp.238-39.

³³ Andrew I. Cohen, ‘Contractarianism, Other-Regarding Attitudes, And The Moral Standing Of Nonhuman Animals’, *Journal Of Applied Philosophy*, 24:2 (2007), 188-200 (p.189) <<https://www.jstor.org/stable/24355305>> [Accessed 4 April, 2022].

³⁴ Rollin, *Animal Rights & Human Morality*, Chapter 1, Section 37, para. 3.

³⁵ Claire Andre and Manuel Velasquez, ‘Who Counts?’, quoted in Morris, ‘The Idea Of Moral Standing’, in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.259.

³⁶ Korsgaard, *Fellow Creatures*, p.148.

³⁷ Julia Driver, ‘A Humean Account Of The Status And Character Of Animals’, in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.145.

³⁸ Attfield and Humphreys, ‘Ecological Justice And Non-Human Beings’ (unpublished paper), p.10.

³⁹ Morris, ‘The Ideas Of Moral Standing’, p.264.

Capabilities and telos as hierarchy – some are still more equal than others

It must be acknowledged that the claim above contradicts the stated principles of the capabilities view: Nussbaum does not consider that higher complexity necessarily makes a being 'higher' than another: for 'each type of being has its own brand of cognitive complexity and interactivity', and each life demands respect in its own characteristic terms.⁴⁰ Elsewhere, she says that capabilities do not create a hierarchy of values/worth but relate to what is good or harmful for a particular creature.⁴¹

And yet at the same time Nussbaum says that more complex lives entail more complex needs, so they can suffer more and different types of harm.⁴² She repeats the same point when she suggests that some animals can be harmed more than others depending on their complexity: for instance, that a cow would suffer more than a shrimp, or a rat would suffer less harm than a dog.⁴³ It will be recalled that this kind of relativistic assumption about animal suffering was challenged empirically in Chapter 2 of this work.

It is difficult to escape the patent contradiction here – and with it the negative implications for those beings judged to be lower on the evolutionary spectrum. For this accepts an implicit hierarchy of values which leads ultimately to the acceptance of moral inequalities in practice. Thus, as DeGrazia notes, the gradualist position entails that, 'The greater a being's cognitive complexity the more moral weight her interests should receive'. But, as he goes on to reflect, 'How can one's intelligence, sensitivity, and the like be relevant to how much a certain amount of pain or suffering matters?'.⁴⁴ Indeed, as Donald Griffin has said, we simply do not have reliable evidence from which to justify value judgements about which animals it is most important not to harm or kill.⁴⁵

To be fair, similar assumptions (and confusions, in my view) are apparent in the writings of other champions of the moral consideration of nonhumans, as well as those of Nussbaum. Despite his comment above, DeGrazia considers that the presumption against killing does not apply equally to all animals, and suggests a kind of sliding scale based on complexity, with dolphins, great apes and humans at the top.⁴⁶ Tom Regan, too, has been criticised for apparent inconsistencies in

⁴⁰ Nussbaum, 'The Capabilities Approach', in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, pp.247-48.

⁴¹ Nussbaum, *Frontiers Of Justice*, pp.361-62.

⁴² *Ibid.*, p.361.

⁴³ *Ibid.*, pp.386-87.

⁴⁴ David DeGrazia, *Taking Animals Seriously: Mental Life And Moral Status* (Cambridge, New York and Melbourne: Cambridge University Press, 1996), p.249.

⁴⁵ Donald Griffin, *Animal Minds* (Chicago: University of Chicago Press, 1992), p.265.

⁴⁶ DeGrazia, *Taking Animals Seriously*, p.265.

applying the principle that ‘all beings that have inherent value have it equally’, not least in his ‘lifeboat’ argument, where he considers that any number of dogs would always have to be sacrificed to save a human life – which suggests, that in practice, some really are ‘more equal’ than others.⁴⁷

It is interesting here, as Lori Gruen notes, that Peter Singer tried to sidestep this problem on the basis that some rational beings are more capable than others of entertaining a specific preference for continued living – hence ‘preference utilitarianism’.⁴⁸ I will be discussing utilitarianism in Chapter 6, but I raise this now simply to indicate broad parallels between utilitarian principles and the ‘sliding scale’ notion of capabilities as a grounding for moral considerability. In particular, they both derive innate value from an imputed and variable capacity for fulfilment: the notion that the experience of ‘a pig satisfied’ is necessarily less significant (i.e., it is less fulfilled) than that of a human being under similar conditions.⁴⁹ But how can this possibly be measured? Even though, say (by analogy), a quart jug holds more than a teacup, one cannot say that a full jug is more or less full (‘fulfilled’) than a full teacup. In either case, it is ‘fulfilled’ (filled full) or it is not.

Ultimately, this is mere guesswork. As Rollin acknowledges, the intuition that a higher or more complex mind has more interests is not without problems - leading him to ask, how many frogs equals one rabbit?⁵⁰ Here again, the problem is an empirical one. Arguably, the utilitarian hedonistic calculus argument ignores what we now know about animal cognition and intelligence in relation to evolutionary continuity, leading to false premises based on assumptions, not empirical evidence.⁵¹

The inner lives of sentient beings cannot be objectively assessed in this way. And a key flaw here is the assumption that the quality of an individual being’s subjective (personal) experience can be evaluated against some objective (impersonal) standard of worth on the part of a notional remote and universal adjudicator. This is to confuse evaluation with *validation*. And even if it were possible to provide non-arbitrary, universal criteria to determine whether the life of a particular living entity is of greater inherent value than another, it would be philosophically inconsistent not to use the same criteria to distinguish between the worth of individual human beings, not just the supposed worth of different species. (For more discussion on this issue in relation to conflicts of interest, see Chapter 1.)

⁴⁷ Lori Gruen, ‘Animals’, in *A Companion To Ethics*, ed. by Peter Singer (Malden, MA; Oxford; Victoria: Blackwell Publishing, 1993), p.347. See also Tom Regan, *The Case For Animal Rights* (Berkeley and Los Angeles: California University Press, 2004), pp.285-86.

⁴⁸ Gruen, ‘Animals’, in *A Companion To Ethics*, ed. by Peter Singer p.349.

⁴⁹ John Stuart Mill, *Utilitarianism* (USA: Renaissance Classics, 2012), p.11.

⁵⁰ Rollin, *Animal Rights & Human Morality*, Chapter 1, Section 39, para. 10.

⁵¹ See Sapontzis, *Morals, Reason, And Animals*, p.161.

Capabilities as conditional on human interests

It seems, then, that while the capabilities approach challenges arbitrary notions of the relative and conditional worth (and therefore moral standing) of nonhumans, it nevertheless remains implicitly conditional in itself in the sense that it still admits judgements of the comparative worth of individual creatures based on their perceived capacities; it retains the common perception that capacity is equivalent to value itself: that which has or is 'more' in some way must necessarily be more valuable, and what has 'less' must be worth less (or even worthless).

In so doing, it still makes humans the ultimate arbiters and judges of that worth, which entails a partisan view of the relative 'mattering' of lives (discussed in Chapter 1): the notion that, if I am human, 'what matters to me' matters more in some objective sense than what matters to you; in effect, 'my good is greater than your good'. And this, ultimately, is the implicit justification for egregious harms such as those involved in animal experimentation, which Nussbaum's account conditionally allows – subject to stringent regulation – while supporting a progressive form of abolition comparable to that advocated by Tom Regan.⁵²

The very notion that humans are entitled to accord worth to nonhumans on the basis of their apparent capacities *presupposes* that we are entitled to remain in a dominant-defining relationship with (or a dynamic involving) nonhumans - and *assumes* that nonhumans exist within a domain which is defined by the interests and activities of human beings. This in turn entertains the implicit assumption that the interests and flourishing of animals is in some way dependent on, and mediated by, the grace and favour of human beings; that is, as something that we recognise, *allow* or dispense to them. But this forgets that, historically, nonhumans have shown themselves to be eminently capable of realising their own *telos* in their own evolutionary domain, without the patronage of *homo sapiens*; in short, they have no need of us.

Despite acknowledged and obvious exceptions such as companion animals, most of our collective interaction with nonhuman beings is actively harmful to them, for it is inherently exploitative. To go further, it is this exploitative relationship with other species which represents the greatest impediment to nonhumans fulfilling their *telos*. If all humans were to disappear from the earth this would not directly disbenefit nonhumans in general, once domesticated species had either died out or escaped into and repopulated the wild. This point is presciently made in the 2015 film, *Jurassic World*, when one character (referring to the genetically engineered dinosaurs) says, 'These creatures don't need our protection – they

⁵² Nussbaum, *Frontiers Of Justice*, pp.390-94 and p.404.

need our absence'.⁵³ Certainly, when one considers not just the immediate suffering occasioned to many billions of nonhumans every year, but also the catastrophic environmental impact directly attributable to human activity, they would be far better served were we not here.⁵⁴

This, is not, I hasten to add, a serious argument that such a drastic step is necessary. We need not extinguish our species or vacate the planet when we could simply adopt the principle of non-harm and non-interference as a matter of course, without which the stated principles of 'capabilities' can have no traction. Aside from natural (or man-made) disasters and other emergencies, we could leave nonhuman beings alone to live out their natural lives according to their *telos* rather than human interests.

Humans – first among equals?

However, many will insist that such ideas negate the value of human *telos* in favour of that of animals: that valuing nonhumans somehow devalues ourselves. Some may cite the concept of *dominion* from the Bible or the outworking of natural selection as a form of justification. This then brings us back to the issues aired briefly in Chapter 3 concerning the common notion that, whatever we may conclude about the relative abilities of animals, there is nevertheless (a) something exceptional or special about human beings, which (b) gives us absolute rights of determination over nonhumans. But does this claim make any sense? And if we insist on this claim, on what is it predicated?

The favoured philosophical convention has been to deploy our superior capacity for reason as a kind of decisive qualification or litmus test of the worth of human life over that of animals. As we saw in Chapter 3, this view can be challenged in the light of mounting evidence that many nonhumans do possess higher cognitive capacities such as memory, self-awareness, planning ahead and problem solving, and even forms of representation and language. But at the same time, it cannot be denied that normally-developed humans have capacities for abstract reasoning and reflexivity which are not apparent in nonhuman beings.

The idea of 'reason *as* power' seems to be the operating principle here. It is evident that no other species can rise above their biological limitations in the way that humans can. Some may be able to use tools and raw materials to fashion structures, for instance, but they cannot use those things to change the very

⁵³ Colin Trevorrow (dir.), *Jurassic World* [Film] (USA: Universal Pictures, 2015).

⁵⁴ Christine Korsgaard directly considers the question of whether humans should 'go extinct' in the interests of preserving other species. See Korsgaard, *Fellow Creatures*, pp.212-13.

conditions under which they live; to bend nature to their will as we can. Similarly, animals do not advance their own inner development in the way that humans do; they remain essentially the same creatures that they always were, their lives governed entirely by the slow and ineluctable progress of evolution.⁵⁵

This I think is what we mean when we say that we are better than, or more advanced than nonhumans. And this evident disparity has tended to support the notion of a categorical, species-based distinction between humans and all other animals which has been largely accepted, if not championed by many philosophers. If our cognitive powers are so decisively superior to those of all nonhumans, there seems little scope then to argue that human life is not *more* than nonhuman life, in some objective sense.

But what does this signify? Andrew Linzey, for instance, has acknowledged that while humans are different from animals, incidental biological differences are not morally relevant: there is no intrinsic merit in being human, nor a right to mistreat other beings. The issue here is the *denigration* of that difference. Here, he criticises Aristotle for conflating 'natural' inferiority with 'moral' inferiority – and he also points out that this does not explain why higher reason should bestow the right to exercise power.⁵⁶

The centrality of reason to moral considerability has also been challenged in recent times via the argument from marginal cases: this highlights the inconsistency within the fact that some animals can have higher cognitive functionality than certain humans (very young children and adults with severe disabilities), and can even do things that many normal humans cannot⁵⁷ – and yet those humans are still accorded full moral status anyway, while nonhumans are not. This in turn indicates that the principle of human superiority is ultimately derived from species membership, not actual capacity, nor the ability to realise that capacity in some way.

Some philosophers, such as R. G. Frey, may accept the marginal cases argument in principle, but nevertheless maintain that a normal human quality of life is worth more than an animal's.⁵⁸ Christine Korsgaard considers that (to simplify it greatly) the marginal cases view wrongly treats a living being in terms of certain kinds of

⁵⁵ See Sapontzis, *Morals, Reason, And Animals*, p.43.

⁵⁶ Andrew Linzey, 'Why Animal Suffering Matters Morally' (chapter), in Andrew Linzey, *Why Animal Suffering Matters: Philosophy, Theology, And Practical Ethics* (Oxford and New York: Oxford University Press, 2009), p.10 and p.13. [Oxford Scholarship Online, 2014] <<https://doi.org/10.1093/acprof:oso/9780199351848.003.0002>>.

⁵⁷ Evelyn Pluhar, *The Moral Significance Of Human And Nonhuman Animals* (Durham and London: Duke University Press, 1995), p.63.

⁵⁸ R. G. Frey, 'Moral Standing, The Value Of Lives, And Speciesism', *Between The Species*, 4:3 (1988), referenced by Lori Gruen, 'Animals', in *A Companion To Ethics*, ed. by Singer, p.345.

properties rather than as a functional unity – a whole being over time.⁵⁹ However, I do not think that either position negates the fundamental issue of double standards concerning *value* which are highlighted by the argument.

Here, it is revealing to consider the inconsistencies in the language we use in relation to differential human capabilities. For instance, it is now generally accepted that it is proper to say that a person *has* a particular disability, rather than that they *are* disabled. They may have a disability, but this is merely a matter of fact, not an ascribed measure of value or worth in relation to normally abled humans. On the other hand, when we describe super abilities in humans – intellectual or physical - we tend to reverse the rule. Thus, rather than saying x has extraordinary mathematical ability or y has abnormal physical strength, it is common to say that x *is* a genius or y *is* a superman: in other words, the person really *is* that capacity.

Thus, there seem to be tensions and a certain arbitrariness at work in the way that perceived functional capacities feed into judgements concerning the differential *worth* of individual beings, which works against the fair evaluation of nonhuman lives. And what this suggests is that the notion of humans' inherent superiority overall is predicated on a conflation of *fact* and *value*: they are in effect treated as the same thing. Thus, the innate value of 'being' seems to depend on having or doing *more* in some sense. However, in humans, *being* valuable is taken for granted; in nonhumans, it is expected to be demonstrated. The problem is, we can measure (to an extent) having or doing, but we cannot measure *being*, even if we can usefully define it.

This problem could be illustrated by an analogy in which music stands for complexity-consciousness (see Chapter 3), and in which we are considering the *value* difference between a solo violinist and a concert orchestra. A full orchestra can 'do more' than a solo violinist, in terms of creating a wider and more complex range of sounds. That is a fact. But this does not mean that it *is* more, or that it is making 'more music' than a violinist, except in a purely literal sense. The *value* of the music is not defined in this way, but at a more subjective level, regardless of the kind of medium involved. Thus, an orchestral piece can be 'scaled down' to be playable by a quartet or even a single instrument in a way that retains the essential character of the original composition while existing as a valid piece of music in its own terms, not as an inferior representation of something better. Admittedly, however, below a certain degree of simplification (if it were played on

⁵⁹ Christine M. Korsgaard, *Fellow Creatures: Our Obligations To The Other Animals* (Oxford: Oxford University Press, 2018), p.84. Korsgaard's argument is much more sophisticated than I have indicated here, in particular her concept of 'life stages'. It would be difficult to do justice to the argument in the space available here, but again, I do not think her position undermines the essential thrust of the marginal cases argument.

an elastic band, for instance), it would cease to be that piece of music, or even music of any kind. (To underscore the analogy with complexity-consciousness, this would represent the undetermined level of evolution below which organisms can no longer be said to be conscious entities.)

Value and the right to be saved: the orchestra or the violinist?

Keeping the above analogy in mind, we can reconsider the ‘your child or the dog?’ type of questions which are often used in animal rights arguments. Ordinarily, if we accept the fact-value conflation referred to earlier, we are forced to agree that a human life is inherently more valuable than that of a dog on the basis of its greater manifest capacity; and a more valuable life must be saved at the expense of a less valuable one.⁶⁰

However, I believe that there are problems within this back-handed form of speciesism. To continue with the analogy, let us imagine being forced to choose between rescuing the members of an entire orchestra from a blazing concert hall or a lone first violinist trapped backstage. (For this experiment the value of human lives is suspended from the equation, so that this is purely concerned with the ‘instrumental’ value of the musicians.)

On the conventional view, the orchestra ‘is more’ and therefore must be our priority. But this ignores the innate *value* of what the various instrumentalists actually do rather than the means of expression employed. Their job is to make music; and that music can be at least as much on the qualitative axis of innate content even while being technically ‘less’ on the quantitative axis of physical manifestation. In other words, the loss of an orchestra does not necessarily mean the loss of ‘more music’ than would be lost if the solo violinist were to be sacrificed instead. What is at work here is the differential value that we typically place on the medium that manifests essentially and qualitatively the same underlying phenomenon, not the value of that phenomenon in itself. To put it another way, the value is attributed to the potential of the entity that performs rather than an inherent and defined quality in that which is performed.

In other words, even if we can do more, it does not necessarily mean that we are inherently more valuable than those who can do less. (Otherwise, what happens to our innate value or our ‘being’ when we stop ‘doing’?) And if this is the case, it makes no sense to envisage a human being as an inherently superior entity which one can use as a standard by which to judge the worth of other beings. Again, to underscore the analogy, it seems that we cannot meaningfully describe or compare the innate value of that which underlies all experience and

⁶⁰ See, for instance, the lifeboat problem in Tom Regan, *The Case For Animal Rights* (Berkeley and Los Angeles: California University Press, 2004), pp.285-86.

consciousness in all sentient beings: the self (or Self) in itself. Such comparisons inevitably rely on arbitrary and superficial characterisations of what those beings really are within a subjective dimension. Animals are not relative or 'failed' persons (any more than violins are failed orchestras), but beings whose inherent value cannot meaningfully be established by comparison with other entities.

The pseudo category of 'personhood'

Nevertheless, in reality, the common acceptance of evaluation on this quasi-instrumental basis maintains the cherished notion of 'personhood', which allows a notional assessment of what is distinctive about the human organism to determine what is of exceptional value in one type of organism and that organism only, which happens to conform with prevailing notions of what is considered to be distinctive about human beings.

Essentially, this form of self-definition excludes other beings in much the same way as caste, class distinctions or nationalism do within the human sphere: personhood could thus be seen as a notion of the privileged and free citizenship of the human race. And, likewise, claims of personhood rest wholly on the arrogated right to make and apply definitions that suit ourselves over and above the interests of others. Thus, to reflect the circularity of this criterion, persons could be regarded as 'beings empowered to define their own status in a way that excludes others on the basis of that definition'.

Some animal ethicists have attempted to apply the concept of personhood to certain 'higher' species of nonhumans such as primates, based on certain human-like capabilities, but this does not help the case here: it merely widens the entry criteria (like a once-exclusive golf-club), but is still dependent on an arbitrary notion of exclusivity. However generous the definition, it still makes moral consideration depend on arbitrary criteria; it reinforces the perception that 'lesser beings' matter less, if at all.

Universalising the privilege of power

We may not find such inconsistencies problematic while we ourselves are in the privileged category, but it is a logical possibility that (to use a familiar argumentative device) there may be other beings in the cosmos far 'higher' than us on any criteria that we could imagine (and on others that we could not), and thus - according to our own accepted scale of arbitrary values - of much greater intrinsic value than human beings. Moreover, on the basis of superior capacity, they would be self-entitled to invoke criteria for the evaluation and exclusion of other life forms. Instead of the negligible criteria of reason or personhood, they might insist for instance (to be deliberately nonsensical), that only

‘interdimensional holographic thoughtforms’ can be morally considerable. One would hope that such beings would be benign, for we would have no defence against them; indeed, we would rely entirely on their voluntary moral self-restraint and compassion, assuming that they possessed these qualities, as nonhumans rely upon ours.

In the face of this theoretical possibility, it seems unlikely that we would still wish to universalise the rule that only beings sufficiently advanced to demonstrate capacity X can qualify for due moral consideration, if we ourselves did not meet those criteria.⁶¹ For if we legitimise our mistreatment of weaker beings by our superiority over them, we cannot without contradiction object to the similarly arbitrary appeal to superiority by those who have power over ourselves. As Korsgaard remarks in her criticism of Kant, we are all vulnerable to violence – no-one has to ‘earn’ the right to be protected against it.⁶² Thus, if we are to avoid such arbitrariness, it is incumbent on us to give due respect to ‘lesser’ beings than ourselves – in the form of non-harm and noninterference - regardless of the fact that they are less capable than ourselves and that we have power over them. In other words, to act justly towards them.

II Justice and contract theory

Differential capacity, justice theory and contracts

The term ‘justice’ (which is derived from the Latin root word *jus* for ‘right’)⁶³ is often translated as ‘fairness’ or equity and it is commonly used to refer to situations where an action is perceived not simply to be good/bad or morally right/wrong,⁶⁴ but to involve adherence to, or an infraction of some form of mutual agreement or common understanding between individuals. The term is also used to indicate consistency, correctness or conformity to a standard: the principle that the same rules apply equally to all. We may say, colloquially, that someone has ‘crossed a line’ or is ‘out of order’, to indicate that they have behaved in an unacceptable way.⁶⁵

⁶¹ This principle is also associated with Kantianism in the form of the condition that an agreed moral principle should be equally binding on all members of the moral community, that one must be willing to be accept a rule as universal and absolute.

⁶² Korsgaard, *Fellow Creatures*, p.110.

⁶³ The *Pocket Oxford Dictionary Of Current English*, 7th edn., ed. by R. E. Allen (Oxford: Oxford University Press, 1984), p.400.

⁶⁴ Garner, *A Theory Of Justice*, p.47.

⁶⁵ We also talk about ‘justified’ text in a typescript, with the lines indicated by the position of the words along the margin, which is itself moveable. However, they conform to a set position; they are in the ‘right’ place; they conform to a pattern, even though the line itself is invisible.

Accordingly, theories of justice have sought to establish consistent principles with which to determine a proper balance between what is due to oneself against what is due to others (rights versus responsibilities), regardless of what one *could* do or take on the basis of superior capabilities. It concerns how individuals may pursue their own best interests without compromising the best interests of others. In Cohen's succinct summary: 'Simply giving others what is due to them satisfies justice. Justice demands only that agents do not harm one another, and, most sharply, that agents treat one another as claimants'.⁶⁶ In Marc Bekoff's equally pithy characterisation, 'Justice is a set of expectations about what one deserves and how one ought to be treated'.⁶⁷

By contrast, to be unjust is to misuse power or position in a way that hurts or deprives others of something – an action which cannot be made right or just by differences in rank or stature.⁶⁸ In short, we must seek to promote equity even in the absence of equality. Justice theory also provides that if we take more than is our due, or we have been deprived of what is due to us, then some adjustment must be made to redress the balance. One version of this is Aristotle's 'sliding scale' account set out in *Ethics*, and one which we would tend to equate with ordinary common sense.⁶⁹ The rule of thumb here is that it is wrong to take more than our fair share of something (or deprive others of theirs), and particularly to take advantage of those much weaker than ourselves or cheat, in order to do this.

Whether our intuitive sense of justice indicates that it is a natural impulse or artificial is a moot point. Bekoff argues that justice (like morality) is not simply an abstract principle but – citing Robert Solomon – something that arises naturally from concern for others.⁷⁰ Contrarily, David Hume considers that justice is basically artificial and conventional (but not arbitrary) and is motivated by self-interest, while morality is based on public interest.⁷¹ Elsewhere, Hume describes

Interestingly, we use the word 'ruled' (rule = to regulate) for lines in exercise books to keep the words literally in line, to keep them in their proper place.

⁶⁶ Cohen, 'Contractarianism', p.195.

⁶⁷ Marc Bekoff and Jessica Pierce, *Wild Justice: The Moral Lives Of Animals* (Chicago and London: The University of Chicago Press, 2010), p.113.

⁶⁸ Humphrey Primatt, *The Duty Of Humanity To Inferior Creatures*, abridged by the Rev. A. Broome, Founder of the SPCA (London: Nisbet, 1831), p.8. Google Play ebook <https://play.google.com/books/reader?id=XLxYAAAAcAAJ&pg=GBS.PA128&hl=en_GB> [Accessed 13 March 2022].

⁶⁹ Aristotle, *Ethics: The Nicomachean Ethics Translated* (Penguin Books, 1953), Book 5, Chapters 1-5, pp.139-54.

⁷⁰ Robert C. Solomon, *A Passion For Justice* (Lanham, MD: Rowman & Littlefield, 1995), cited in Bekoff and Pierce, *Wild Justice*, p.131.

⁷¹ David Hume, *A Treatise Of Human Nature* (Wentworth Press, 2016), Book III, Part II, Section I, para. 16; and Section II, para. 22. Kindle ebook.

laws of justice and property as ‘whimsical’, ‘unnatural’ and ‘superstitious’.⁷² I will be discussing this issue more fully in Chapter 6.

Only rational beings can partake of justice

As I have argued above and in Chapter 1, humans have only ‘non-rights’ over nonhumans: we cannot own them or legitimately take what belongs to them in this way. Referring back to Aristotle, we cannot say of a bank robber that they took more or less than they were due but that they had *no right* to take anything at all in the first place. If we do, we take it by means of theft; and if we are thieves, we act unjustly to the party from whom we have stolen. The same principle, I believe, applies equally to theft from nonhuman beings.

However, many philosophers consider that (using a similar principle to the exclusive ‘moral agents’ clause discussed above) the interests of nonhumans cannot legitimately be included within the sphere of justice. John Rawls specifically excludes nonhumans from fair treatment within his own theory of justice, on the basis that animals lack the capacities needed to engage in contractual agreements.⁷³ For Rawls, moral agents are defined as ‘those persons who have a capacity for a sense of justice and a conception for the good’.⁷⁴ And, on the standard ‘reciprocity’ view, as they cannot participate in the social contract and the moral community, we cannot owe duties to them.⁷⁵

Importantly, however, like Kant, Rawls does not exclude animals from the moral sphere altogether. Rawls considers that animals should be protected from cruelty, but under the aegis of wider moral duties, based on sentience.⁷⁶ Thus, we have direct moral duties towards them, including compassion and humanity, but this falls outside the scope of justice, which is conceived as sub-set of morality overall.⁷⁷ Here, Cohen makes the important point that:

Contractarianism is not committed to saying that it is permissible to torture animals if the contract ignores them. Marrying contractarianism to a quasi-realism [the notion of ‘moral facts’] can give much room for saying: torturing animals is wrong, and the contract ought to express and enforce that view.⁷⁸

⁷² David Hume, *An Enquiry Concerning The Principles Of Morals* (<www.WealthofNation.com> 2015), Section III, Part II, para. 15. Kindle ebook.

⁷³ John Rawls, ‘A Theory Of Justice’, revised edn. (Oxford: Oxford University Press, 1999), cited by Attfield and Humphreys, ‘Justice And Non-Human Animals’, p.4

⁷⁴ Attfield and Humphreys, ‘Justice And Non-Human Animals’, p.4.

⁷⁵ Korsgaard, *Fellow Creatures*, p.116.

⁷⁶ Robert Garner, ‘Rawls, Animals And Justice: New Literature: Same Response’, *Res Publica*, 18 (2012), 159-172 (p.161) <<https://doi.org/10.1007/s11158-011-9173-z>>.

⁷⁷ Attfield and Humphreys, ‘Justice And Non-Human Animals’, p.4.

⁷⁸ Cohen, ‘Contractarianism And Moral Standing’, p.198.

And this I would interpret to mean that, as moral agents, we have direct moral responsibilities to other beings, who can be wronged by our actions, whether we are contractually obliged to them or not.

Including animals in justice theory

Some consider that the problem with moral obligations outside the scope of justice is that they are less stringent,⁷⁹ or 'do not have teeth', and may simply be disregarded because there is no motive to do otherwise;⁸⁰ and this suggests that nonhumans need the added protection of justice if their interests are to be taken seriously. Accordingly, various modern animal ethicists have sought to incorporate animals into justice theory, despite Rawls' explicit exclusion of them in his version of contractualism. Nussbaum, for instance, thinks there is no reason why basic justice entitlements should not 'cross the species barrier' and be applied to animals.⁸¹ As Attfield and Humphreys summarise the case for inclusion:

Justice is commonly taken to be about treating individuals fairly, taking into account what they are due [...] Conceptualised as such, justice seems readily applicable to animals, for they have interests the fulfilment of which is conducive to their own good and which are capable of being unfairly overridden.⁸²

Certainly, if justice rests on the principle of fairness, it is both inconsistent and unfair (ironically) to argue for fairness in relation to certain kinds of acknowledged incidental inequalities but not others. Consider, for example, a scenario in which citizens are invited to go to their council offices to claim their welfare and disability entitlements: all claims must be made *only* in person, and *only* without using any kind of disability aids (including spectacles, hearing or speaking devices). Arguably, this is not different in principle from the restriction that only rational beings can be recipients of justice: that is to say, the restrictive criteria could not only be waived, but are such that those most affected by those criteria cannot possibly satisfy them. They may have claims, but they cannot collect.⁸³

Various commentators have homed in on the inconsistency within the assertion that only full moral agents can be receive justice. While there are acknowledged differences between humans and nonhumans, they are sufficiently similar for us to extend moral principles to animals if we so choose.⁸⁴ Here again, as Nussbaum and others have pointed out, one can be incapable of having an obligation but still

⁷⁹ Attfield and Humphreys, 'Justice And Non-Human Animals', p.3.

⁸⁰ Garner, *A Theory of Justice*, p.61.

⁸¹ Nussbaum, *Frontiers Of Justice*, p.326.

⁸² Attfield and Humphreys, 'Justice And Non-Human Animals', p.2.

⁸³ *Ibid.*, p.8.

⁸⁴ Rollin, *Animal Rights & Human Morality*, Chapter 1, Section 9, para 7.

be qualified to be a beneficiary of that obligation.⁸⁵ We would not say that because children or vulnerable adults cannot enter into contracts we may therefore enslave and exploit them as we see fit. Weakness on the part of another party does not give us the right to take that which is not freely and knowingly given, regardless of their inability to prevent us from doing so, or even to protest.

This brings us back, again, to the inconsistencies revealed by the marginal cases argument mentioned earlier: that is to say that such restrictions on the basis of moral agency would logically also apply to marginal humans; but this does not actually exclude them from the sphere of morality or justice in practice.⁸⁶ Interestingly, Garner notes that Rawls accommodates the marginal cases issue in later editions of the work and no longer considers it a *necessary* condition for a being to sense justice to be owed duties of justice - which, Garner thinks, leaves it open that animals could logically be included.⁸⁷

This is further strengthened, as Garner also notes, by Mark Rowlands' argument that animals need be excluded only in the Hobbesian version of contractual obligations (which rest on the self-interests of the participants, rather than moral standing), but not necessarily in the Kantian version, where the principles of justice must be gauged against pre-existing moral standards independent of the contract.⁸⁸

Accidence of birth, Rawls and 'the original position'

As is true of the differences between individual human beings, the difference between species is an accident of birth. One could as easily have been born an animal and suffer animal wrongs. We do nothing to deserve the benefits of being human or of being an advantaged human: it is no credit to us but a form of inherited privilege; it is a kind of 'natural lottery' (in Regan's phrase) that gives higher abilities to some beings and lower abilities to others. Thus, we cannot claim credit for being human, nor for the abilities that pertain to membership of that species.⁸⁹

The recognition of this principle is acknowledged in Rawls' account of justice, which he outlines, partly by the concept of 'the original position', an imaginary scenario where contractors have no foreknowledge of their country of origin, their gender, social class, level of education, and so on (as they are hidden behind 'the

⁸⁵ Martha Nussbaum, 'The Capabilities Approach And Animal Entitlements', in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, pp.238-39. (Here, Nussbaum is also citing arguments put forward by Christine Korsgaard.)

⁸⁶ Attfield and Humphreys, 'Justice And Non-Human Animals,' pp.9-10.

⁸⁷ Garner, 'Rawls, Animals And Justice', p.161.

⁸⁸ Ibid., p.167. Here Garner cites Mark Rowlands, *Animal Rights: Moral Theory And Practice*, 2nd edn. (Basingstoke: Palgrave, 2009).

⁸⁹ Pluhar, *Beyond Prejudice*, p.237.

veil of ignorance'), and must determine what conditions should apply to contractual relations that may affect them as individuals when they arrive.⁹⁰

Again, however, Rawls restricts the scenario to human beings only – a decision which, according to Garner, Rawls makes before deploying the contractual device of the original position: that is, he decides *in advance* that animals will be excluded from his theory of justice.⁹¹ However, as Garner also notes, some commentators have argued for the inclusion of species membership as well, meaning that those in the original position, upon realising that they could turn out to be animals, would want to include animals within the sphere of justice.⁹² (Here, Garner again notes that Rawls excludes animals but not marginal humans because even marginal humans have personhood, which is inconsistent on the basis that some marginal humans will never be persons in the strict sense.)⁹³

An interesting variation on this suggestion is provided by Rowlands who advances the intuitive equality argument (IEA), which entails that even the possession of reason is also an unearned natural advantage (a matter of luck) and thus should also be hidden behind the veil of ignorance. Again, this would allow animals and marginal humans to be included in justice on an equal footing.⁹⁴

Overall, such attempts to show that nonhumans *could* be included within conventional justice theory are persuasive and logical. However, it is not clear how this benefits nonhumans in practice. For even if we accept in principle that nonhumans could be theoretical beneficiaries of justice, this still does not give them the 'teeth' needed to enforce the claims to which they are entitled against humans. If we are prepared to ignore their interests on a moral footing, the notion of justice does not seem to add anything that has any real currency in reality. In short, they may be included through reason but excluded through power. In seeking to embrace the interests of nonhumans within justice theory we tend to forget that justice theory was designed by humans for humans, to help meet specifically human modes of interaction.⁹⁵

It has been argued elsewhere that animals are part of the moral sphere but not that of justice – and indeed that justice itself 'is not intelligible' outside the relations between human beings.⁹⁶ This is not necessarily to agree that human

⁹⁰ John Rawls, *A Theory Of Justice*, Original Edition (Cambridge, MA and London: Harvard University Press, 1971), pp.11-22.

⁹¹ Garner, 'Rawls, Animals And Justice', p.169.

⁹² Ibid., pp.165-67.

⁹³ Ibid., p.166.

⁹⁴ Mark Rowlands, *Animal Rights: Moral Theory And Practice*, 2nd edn. (Palgrave: Basingstoke, 2009), cited in Garner, 'Rawls, Animals And Justice', p.167.

⁹⁵ Attfield and Humphreys, 'Justice And Non-Human Animals', p.2 and p.8.

⁹⁶ Brian Barry, 'Sustainability And Intergenerational Justice', in *Fairness And Futurity: Essays On Environmental Sustainability And Social Justice*, ed. by Andrew Dobson (Oxford: Oxford University Press, 1999), cited in Attfield and Humphreys, 'Justice And Non-Human Animals', p.3.

justice is superior in any way, but I think it does point to two entirely incompatible modes of being. Nonhumans in their natural environment have no use for contracts, for their competing interests are governed and balanced by nature through evolution in the form of lawlike constraints upon all living beings existing in natural (i.e., not socially engineered) relations with one another. Despite power differentials, none can ‘step outside’ their evolutionary circumstances and physical limitations: even predators have capacity limitations ‘written in’ to their evolutionary development alongside the evolutionary development of their prey; they exist in a kind of adversarial symbiosis in which neither species has overall control, but are similarly constrained by the prevailing pressures within their environment, so that their interrelationships automatically tend towards a kind of dynamic equilibrium.⁹⁷

This also means that the harms we do to individual species do not end there, but impact on complex interrelationships within the natural environment, which makes protecting endangered species and preserving ecosystems also a matter of justice.⁹⁸ Indeed, by removing creatures from, or destroying their environmental ‘matrix’ as it were, we take away what would otherwise be theirs through the provision of nature; and unless we compensate for this in some measured way, then we cannot avoid dealing unjustly with them.

Natural altruism and ‘wild justice’

At the same time, it would be an error to characterise nonhumans as mindless ‘puppets’, incapable of any form of self-determination. Indeed, it seems that another flaw in Rawls’ theory is that it excludes animals from moral agency, despite empirical evidence of animal cognition and in particular their apparent ability to use discretion in their behaviour towards others. Here, Nussbaum argues that Rawls is in error on empirical rather than philosophical grounds, in that he underestimates animals and their reciprocity, and assumes but does not actually make the case against them.⁹⁹ I would agree that Rawls is in error here but disagree with the distinction Nussbaum makes, on the simple grounds that factual errors and false assumptions make for erroneous propositions, false inferences, and, ultimately, unsound conclusions. And this, I contend, is largely responsible for the failure even of many major Western philosophers to provide an adequate account of animal ethics in general.

In relatively recent times a considerable amount of empirical evidence based on evolutionary biology and neuroscience has been produced, which has made it

⁹⁷ I will be returning to this phenomenon/principle, which I refer to as ‘respectivity’, in later chapters.

⁹⁸ Attfield and Humphreys, ‘Justice And Non-Human Animals’, p.8.

⁹⁹ Nussbaum, *Frontiers Of Justice*, p.332.

credible to argue that at least some animals have cognitive and empathetic capabilities that enable them to act in ways which strongly suggest that they have some degree of moral or proto-moral sense akin to our own. Some commentators such as DeGrazia even consider that they are capable of moral agency, but most disagree they are moral agents in a strict sense, which requires the ability to deliberate and make objective judgements.¹⁰⁰ At the same time, we should not assume that our own 'back-scratching' protocols are necessarily superior to the basic altruistic reciprocity of animal societies.¹⁰¹

In particular, this is apparent in the ways in which at least some animals such as rats, dogs or chimpanzees 'play fair' and react to unfairness or unmet expectations, which have been recorded by, for example, Frans DeWaal and Carl Safina (see Chapter 3), and which confound Rawls' claim that nonhumans are incapable of 'sensing justice'.¹⁰² Various field studies and accounts have provided anecdotes about apparent unspoken agreements and 'truces' between different wild animal species and even between human hunters and wild animals, involving food-sharing and kill-sharing. There are even recorded instances of lions apparently seeking revenge by tracking down and lying in wait for humans who have previously tried to kill them.¹⁰³

And as Bekoff also notes, social animals show fairness and self-restraint during play with one another, and they show surprise or react negatively to unfair play behaviour – when things don't go 'right' during their games.¹⁰⁴ This is highly significant here because, as Bekoff says, 'If we define justice as a set of social rules and expectations that neutralise differences among individuals in an effort to maintain group harmony, then that's exactly what we find in animals when they play'.¹⁰⁵

This is remarkably sophisticated behaviour, akin to the handicap systems used by humans in golf, chess and other games, which acknowledge superior ability, but also recognise fair, sporting treatment of the less able. Yet if we humans can abide by principles of fairness in such relatively trivial situations, this raises the question of why we seemingly cannot extend it to our moral behaviour towards the most

¹⁰⁰ Attfield and Humphreys, 'Environmental Justice And Non-Human Beings' (unpublished paper), p.12. See also Attfield's and Humphreys' published version, 'Justice And Non-Human Beings', already cited. I will be discussing this issue more fully in Chapter 6. See also my MA dissertation: John Sydney Camp, 'Do Non-Human Animals Have Some Form Of Moral Sense Which Informs The Way That They Live And Act Towards Members Of Their Own And Other Species?' (2018), held electronically by UWTSd Lampeter, Research Repository <<https://repository.uwtsd.ac.uk/>>.

¹⁰¹ See Mary Midgley, 'The Origin Of Ethics', in *A Companion To Ethics*, ed. by Peter Singer (Malden, MA; Oxford; Victoria: Blackwell Publishing, 1992), pp.10-11. See also Bekoff and Pierce, *Wild Justice*, p.71.

¹⁰² Carl Safina, *Beyond Words: What Animals Think And Feel* (London and New York: Souvenir Press, 2015), pp.262-63. See also Rollin, *Animal Rights And Human Morality*, Chapter 1, Section 9, para. 9.

¹⁰³ Safina, *Beyond Words*, pp.179-81.

¹⁰⁴ Bekoff and Pierce, *Wild Justice*, p.115-16.

¹⁰⁵ Ibid., p.121.

disadvantaged of all beings in matters of life and death. It is difficult to understand why we seem unable to play fair when more serious issues are at stake.

Forced and exploitative contracts with those weaker than us

Rather than exhibiting fairness in our relations with animals, our common or default position is to impose patently unfair ground rules and notional one-sided 'contracts' upon them – presumptive arrangements which exist solely to facilitate the exploitation of nonhumans for resources, labour, and other human benefits. And when one considers the major economic profile of the wholesale exploitation of nonhuman beings, with the global meat industry worth nearly 1000 billion US dollars annually,¹⁰⁶ it is clearly false to claim (as Rawls does) that nonhumans cannot be morally considerable on the grounds that they do not contribute to society.¹⁰⁷ Even assuming for argument's sake that they cannot make choices, it is not morally relevant to whether they can be recipients of justice.

The contradictions inherent in such pseudo-contractual relations with nonhumans are all too apparent here. As Garner points out (with reference to Mark Coeckelbergh), animals would be owed duties of justice only while they were in co-operative relationships with humans. This then 'amounts to the rather odd position that animals are only due justice while they are being exploited' - thus creating the ironical situation that abolitionists would be preventing animals from receiving justice on this basis.¹⁰⁸

However, if an affected party cannot voluntarily engage with the contractual process (through reduced capacity), then any subsequent transaction is not merely a breach of conventions but a form of theft derived from the very *fact* of inequality or disadvantage. Thus, even if some form of contract is taken to exist by the more powerful party, it is an inherently unequal and presumptive arrangement which is necessarily *imposed* on the weaker party by default and exists solely to the advantage of the dominant group or individual, even while pretending to engage co-operatively with them and even to confer benefits upon them. As such, it would be morally and legally null.

¹⁰⁶ Source: 'Meat Industry Value Worldwide In 2021 And Forecasts For 2022 and 2027', *Statista* <<https://www.statista.com/statistics/502286/global-meat-and-seafood-market-value/>> [Accessed 6 March 2022].

¹⁰⁷ Garner, 'Rawls, Animals And Justice', p.170.

¹⁰⁸ Mark Coeckelbergh, 'Distributive Justice And Co-operation In A World Of Humans And Non-Humans: A Contractarian Argument For Drawing Non-Humans Into The Sphere Of Justice', *Res Publica*, 15 (2009), 67-84. Referenced by Garner, 'Rawls, Animals And Justice', p.171.

Here, a comparison with human slavery is hard to avoid. A slave owner, for instance might claim, 'I treat all my slaves fairly' (e.g., 'None of my slaves gets more than twenty lashes and they all get the same ration of gruel') – ignoring the fact that they already exist in a default state of injustice by virtue of being denied their freedom and being owned as property, as means rather than ends in themselves. However, they could not simultaneously exist as slaves (even 'fairly treated' slaves) *and* be recipients of justice: thus, in order for them to receive justice they would have to cease to be enslaved; it would be conditional upon their being given their freedom.

It is noteworthy that Rawls' theory ruled out human slavery as a form of 'reasonable pluralism' (i.e., it is unacceptable because it degrades human persons) and yet expressly excluded animals from this dispensation. Garner asks why, if animals are important enough morally, they are not included as recipients of justice?¹⁰⁹ My response would be that there is no moral or logical reason why they cannot receive justice; but they cannot be recipients of justice while at the same time being denied their basic interest in, or indeed (negative) right to freedom, and being forced into exploitative 'contractual' relations with humans. That is, unless and until they too are liberated from the exploitative control of humans; in other words, through the realisation of abolitionist principles.

Nonhumans – in common with human slaves – cannot escape from imposed contractual agreements with their owners, not because they are incompetent (lack reason) to make choices or express preferences but because they are devaluated and disempowered. They protest when captured or cry out when harmed; they try to defend themselves and attempt to escape captivity. All of these are valid forms of self-representation of interests - expressions of dissent and unwillingness which are valid reasons to require us to withdraw our putative claims against nonhumans whom we would seek to exploit. Yet, in response, we commonly refuse to recognise their attempts to assert themselves; we act as if they had not been made. We automatically veto them because nothing can force us to do otherwise: we have the power to do as we will to them.

Power, responsibility and guardianship

It is worth reminding ourselves that we can exploit nonhuman animals in this way because human technology now enables us to overwhelm not just small and benign species, but even powerful species which once posed a threat to us. Such is the leverage given by our technology that, as a collective, we now have virtually absolute power and control over all other living beings, with no fear of their

¹⁰⁹ This concerns Rawlsian ideas concerning definitions of 'reasonable' and 'unreasonable' forms of moral pluralism in the context of justice. Referenced in: Garner, 'Rawls, Animals And Justice', p.164.

asserting their rights against us.¹¹⁰ Thus, as both Sapontzis and Nussbaum have pointed out, this disparity in power creates a one-sided situation where the weaker party is less able to bargain with the other;¹¹¹ the gap between humans and nonhumans is too great to provide a basis for contracts between them.¹¹² And this creates the basis of our behaviour towards them: we have no clear motive to exercise moral restraint in our dealings with them.

On one hand this seems to support Hume's position that we cannot owe justice to those who do not have the power to make claims upon us. As Korsgaard notes, this seems to imply that if one group of people had absolute power over everyone else, they would have no motive to co-operate with them and thus no longer have duties of justice to them on that basis.¹¹³ However, at the same time, the Humean view is that, 'Because [animals] reason and feel, we owe them consideration on the basis of duties of humanity, though not in Hume's very special sense, on the basis of justice'.¹¹⁴ And these duties of humanity (or benevolence) act as a kind of foil for justice, making compassion 'a check against our lawless will'.¹¹⁵

However, while Hume clearly distinguishes between justice and the duties of humanity, the latter are not less important or less strict. To simplify it greatly from Robert Shaver's account, humanity is needed to maintain the social confederacy (for it motivates us in ways that justice does not). Indeed, justice 'presupposes humanity' – the concern for others that operates between unequals. Thus, while it may be true that justice is necessary to maintain society, this does not mean that benevolence does not also play an important and necessary role.¹¹⁶ Morris also considers that justice and charity/benevolence are complementary, and on this basis considers that there needs to be a 'non-judicial' basis for moral standing.¹¹⁷

The evident and seemingly inevitable disparity of power has led a number of commentators to suggest a kind of workaround in the form of 'indirect' moral standing for nonhumans. As Nussbaum says, we cannot sensibly talk about contracts between animals, but we can talk about humans acting as guardians on their behalf.¹¹⁸ This would mean, in other words, a kind of secondary moral standing or status based on the protective intervention of full moral agents,

¹¹⁰ Nussbaum, *Frontiers Of Justice*, p.334.

¹¹¹ Sapontzis, *Morals, Reason, And Animals*, pp.142-44.

¹¹² Nussbaum, *Frontiers Of Justice*, p.334.

¹¹³ Korsgaard, *Fellow Creatures*, pp.117-18.

¹¹⁴ Julia Driver, 'A Humean Account Of The Status And Character Of Animals', in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.144.

¹¹⁵ Korsgaard, *Fellow Creatures*, p.117.

¹¹⁶ Robert Shaver, 'Hume On The Duties of Humanity', *Journal Of The History Of Philosophy*, 30:4 (1992), 545-556 (p.550 and pp.552-53) <<https://doi.org/10.1353/hph.1992.0083>>.

¹¹⁷ Morris, 'The Idea Of Moral Standing', in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, pp.267-68.

¹¹⁸ Nussbaum, *Frontiers Of Justice*, p.388.

which, importantly, does not cancel out direct moral duties towards them.¹¹⁹ This 'piggyback' moral standing is comparable to the kind of moral considerability enjoyed by human infants, whose rights are protected by full moral agents even though they cannot assert moral claims themselves.¹²⁰

At the same time, I would agree with Cohen that secondary moral status is still potentially problematic because it makes animals dependent on the recognition of their moral status by humans.¹²¹ Unfortunately, I can see no other realistic option. Even if we successfully argue for rights or indeed justice for nonhumans, it is nevertheless an inescapable fact that nonhumans cannot represent or protect themselves or their own interests against human beings. Like children or infirm and vulnerable adults, they cannot enforce such rights for themselves.

One could characterise this as a general duty of care not necessarily restricted to the relationship between an adult and children but akin to the avowed and 'disinterested'¹²² duties of persons such as doctors and police officers whose special responsibilities and training (capabilities) entail a special empowerment to intervene in the lives of others who need their help. Here, one could say that the special nature of our power and derived authority over the rest of the natural world gives us special caring responsibilities (or stewardship) for all that is 'below' us, likely to be affected by us, or perhaps indirectly dependent on us. This, I would suggest, amounts to something akin to truly disinterested morality rather than self-interest and prudence: to do the right thing for its own sake; to act for a good that is not necessarily to do with oneself and one's own interests.

Here I should stress that such guardianship would need to culminate in human-led efforts to emancipate nonhumans under the aegis of abolitionism – not to default to self-serving welfarism in the form of notional improvements to their conditions while they are being exploited. Even minimal moral entitlements cannot (logically or practically) be realised unless and until nonhumans are no longer forced into exploitative 'contracts' devised exclusively to fulfil the relatively trivial interests and wants of human beings and to deny them their own. Thus, on the basis of the moral principles argued for in this chapter, guardianship would take on the role of protecting nonhumans from ourselves, from abuse and exploitation in the way that we nowadays protect endangered species under the rule of law – not 'protecting' them while continuing to abuse and exploit them.

¹¹⁹ Morris, 'The Idea Of Moral Standing', p.267. See also Beauchamp, 'Rights Theory And Animal Rights', in *The Oxford Handbook Of Animal Ethics*, Beauchamp and Frey, p.218.

¹²⁰ Cohen, 'Contractarianism And Moral Standing', p.191.

¹²¹ Ibid., p.195.

¹²² Hume conceived of two sorts of obligation – moral and 'interested' (such as justice, promise-keeping) although both can apply at the same time. Shaver, 'Hume On The Duties Of Humanity', p.547.

On balance, as I have argued in this chapter, nonhumans have innate value and are due proper moral respect in their own terms on the capacities-*telos* view (despite issues in interpretation outlined earlier), irrespective of their usefulness to human beings, or indeed of humans' higher cognitive capacities. Nonhumans can be recognised as morally significant beings on the basis of sentience and interests (in fulfilment of their *telos*) and this allows us to frame them as legitimate bearers of passive rights against human interference and indeed as deserving candidates for justice on the same basis upon which justice is extended to all human beings, regardless of capacity – and these things collectively entail direct moral obligations towards them on the part of human beings.

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Chapter 6

'Holiness' versus synthetic morality: are humans moral beings or ethical pragmatists?

So far, the discussion has largely centred on nonhuman beings, their cognitive capacities, moral standing and entitlements. However, following on from the discussion of moral responsibility in the previous chapter, the focus now shifts more towards human beings and the second half of the main title question of this thesis, i.e., what does our collective behaviour towards other living beings say about the nature of human morality? A number of themes from previous chapters will naturally re-emerge as the discussion progresses.

Previously, I have argued that all forms of avoidable harms against nonhumans are morally wrong on the sufficient basis that they *are* harms; and this in turn underpins the incumbent duty of mercy discussed in Chapter 4. However, this key principle seems not to obtain generally in human behaviour beyond those religio-cultural communities which espouse non-harm (*ahimsa*) as a sacred principle. Despite the theoretical advantage of reason and the development of moral systems, humans nevertheless routinely continue to visit egregious and deliberate harms on other living beings, human and nonhuman; indeed, many flout, or struggle to observe even ordinary baseline morality, or established laws. This is 'normal' for us.

This then suggests the serious question - are humans actually moral beings? And if we answer in the affirmative, we need to explain what human morality really amounts to - on what is it predicated? It also prompts the further question of whether human moral practice is actually superior to nonhuman beings' apparently native, ethical behaviour, and whether the faculty of reason (insisted upon by Kant, for instance), is fundamental to it. After all, we are the only species that needs to impose artificial enforcement systems to defend itself against itself. And on this basis, my contention is that the human moral sense is so seriously compromised that the species could not function without some kind of synthetic and pragmatic moral-ethical framework.

Nonhuman animals on the other hand, without the benefit of ratiocination, religion, or reward, exhibit pro-social and altruistic behaviours, or at least co-exist tolerably alongside one another, and indeed human beings unless they are severely provoked. Undoubtedly, they challenge, fight and kill over territory and mating rights, and carnivorousness itself is an inescapable fact; but such actions are, arguably, hard-wired into animals as an aspect of their functionality – not *ad hoc*,

arbitrary responses to personal conflicts, petty grievances or desires. In that sense, I contend, animals may be more closely attuned to an inherent, instinctive moral sense than humans in what they really do, as moral actors, rather than via any received understanding of moral principles and rules.

What do we mean by morality?

The term 'morality' (from '*moré*', meaning 'customs or conventions seen as characteristic of or essential to a community')¹ is normally associated with social obligations, which may form the basis of moral systems. Here, Marc Bekoff and Jessica Pierce define morality as, 'a suite of interrelated other-regarding behaviours that cultivate and regulate complex interactions within social groups'.² As Mark Rowlands also says, 'Normativity is essentially embedded in social practices rather than individual psychological processes'.³

On the face of it, this sounds more like a form of functionalism rather than what we may really mean by morality. This characterisation indicates that the basic purpose of morality is to keep society functioning for the good of all its members, based on agreed standards that have 'moral authority'.⁴ Importantly, as David Copp argues (essentially), these standards could include a standard to treat animals with compassion and kindness, and this could be generally beneficial to society if they were absorbed as part of the central value system of that society. Or, conversely, restricting this code to humans only (by making killing acceptable in some situations) weakens our disposition to show compassion and kindness to one another overall.⁵

At the same time, I think that there exists an innate moral impulse which is independent of social norms and may even conflict with them. This seems broadly consonant with Bekoff's and Pierce's further definition of morality as, 'a spectrum of behaviours that share the common features of concern about the welfare of others'.⁶ Thus, while agreed moral norms may be conducive to a fair,

¹ Derived from the Latin word *mos*, meaning custom. *The Pocket Oxford Dictionary Of Current English*, 7th edn., ed. by R. E. Allen (Oxford: Oxford University Press, 1984), p.477.

² Marc Bekoff and Jessica Pierce, *Wild Justice: The Moral Lives Of Animals* (Chicago and London: The University of Chicago Press, 2010), p.7.

³ Rowlands argues that normativity is embedded in and a property of communities – a particular practice. (However, he does not consider that animals belong to a practice.) Mark Rowlands, *Can Animals Be Moral?* (Oxford and New York: Oxford University Press, 2012), p.190.

⁴ David Copp, 'Animals, Fundamental Moral Standing, And Speciesism', in *The Oxford Handbook Of Animal Ethics*, ed. by Tom L. Beauchamp and R. G. Frey (Oxford and New York: Oxford University Press, 2011), p.288.

⁵ Ibid, pp.291-95.

⁶ Bekoff and Pierce, *Wild Justice*, p.138.

just and well-ordered society, I would nevertheless contend that there is an inner or deeper meaning of morality which is more to do with personal integrity and a disposition to 'do the right thing' in itself, rather than merely maintaining the social fabric. Thus, while morality arises from and maintains social interrelationships, it also pertains to what underpins our innermost, personal standards of good behaviour – i.e., our other-regarding attitudes.

Morality is often seen as coterminous and interchangeable with ethics, although Bernard Williams considers distinctions between the two terms in the introduction to his book, *Morality*, noting that he has thought of 'ethical' as broader and 'moral' as narrower (i.e., to do with moral systems).⁷ The term 'ethics' (derived from *ethos*, meaning 'habits') is also linked to virtue ethics, which pertains to one's individual capacity for virtue and particularly one's conduct towards others, which is itself grounded in, and guided by, sound judgement or wisdom: the ability to assess situations, weigh up the likely consequences of possible courses of action, and make the right ethical choice in each case.⁸

In relation to virtue, I would suggest the baseline definition: *the manifest disposition not to harm or compromise the interests of other beings in the pursuit of one's own interests*. And, although somewhat self-neglecting (viewed from an Aristotelian perspective), this seems to me to be in keeping with the proverb quoted by Aristotle: 'All virtue is summed up in dealing justly'.⁹

Importantly, for Aristotle, one must cultivate virtue deliberately as one might learn a craft or skill,¹⁰ so the practice is inherently conscious, and (on this basis) pertains only to humans. Certainly, some animals also can deliberately learn and practise specialised skills (e.g., Bower Birds),¹¹ but they do not appear consciously to practise being good. (Unless one interprets rehearsal through animal play – discussed presently – as a form of moral education.) Thus, animals may realise good through their actions, but without necessarily seeking to be good creatures for the sake of it. But then it makes no sense to expect a being to strive to be good if it is already as good as nature allows.

⁷ Bernard Williams, *Morality: An Introduction To Ethics*, Canto edn. (Cambridge and New York: Cambridge University Press, 1993), xiii.

⁸ *Phronesis*, in Aristotelian terms. Aristotle, *The Ethics Of Aristotle: The Nicomachean Ethics Translated*, ed. by J. A. K. Thompson (Penguin Books, 1953), p.55.

⁹ *Ibid.*, p.141.

¹⁰ *Ibid.*, pp.55-56. See also Rowlands, *Can Animals Be Moral?*, pp.102-04; pp.118-19; p.139.

¹¹ Donald Griffin, *Animal Minds: Beyond Cognition To Consciousness* (Chicago and London: The University of Chicago Press, 2001), pp.96-99.

What do we mean by 'good'?

The following comments are indicative rather than strictly definitive, and it must be acknowledged here that the concept of good is philosophically problematic. For G. E. Moore, in *Principia Ethica*, good is indefinable and irreducible (somewhat like the colour yellow) and cannot be explained in terms of its parts or in terms of something else (pleasure, for instance); indeed, he describes the attempt to do so as the 'naturalistic fallacy'.¹² We cannot avoid this logical problem, but (Moore thought) we can know the good by a kind of intuition. (I interpret this to mean 'recognition' in that, for Moore, it can be known, but not defined prior to knowledge.) He did not believe in the intrinsic rightness of a course of action but thought the relevant criterion was whether it resulted in a good outcome.¹³

Nevertheless, I think a thing can be considered to be good in in as far as it accords with the function (*telos*) or normal state of a thing or a being and enables it to continue to be the thing or being that it is (see Chapters 5 and 10).¹⁴ In this regard, we can identify natural goods which are vital to the lives of all sentient beings (see Chapter 1) and whose existence is independent of our ability to define the good as such. Christine Korsgaard calls good a tethered notion, in that it must be good for creatures (or 'somebody').¹⁵ Robert Goodwin makes a similar point and links this to the idea that regarding a creature as an end in itself comes from the position of empathy: the recognition of what is good for that particular being; what that being needs.¹⁶

In this sense, goods are knowable and concrete; despite the acknowledged problems of definition, they are amenable to ordinary perception, just as 'yellow' is. If I know what my interests are, I also know when I have fulfilled or not fulfilled them; I also know when other similar beings have fulfilled theirs.¹⁷ Indeed, *telos* itself provides the criteria from which to judge when any particular thing is fulfilling or not fulfilling its purpose, through observation or deduction. For instance, the brakes on a car are 'good' while they are working properly, but 'no good' if they stop working. Additionally, if some defect has caused them to fail, we may say that this 'shouldn't have happened' – meaning that there has been some deviation from a commonly-perceived norm.

¹² G. E. Moore, *Principia Ethica* (SophiaOmni Press, 2017), p.13.

¹³ W. D. Hudson, *Modern Moral Philosophy*, 2nd edn. (Basingstoke and London: Macmillan, 1983), pp.66-68 and p.81. See also Williams, *Morality*, pp.38-47.

¹⁴ Christine M. Korsgaard, *Fellow Creatures: Our Obligations To The Other Animals* (Oxford: Oxford University Press, 2018), p.20.

¹⁵ Korsgaard, *Fellow Creatures*, pp.135-36.

¹⁶ Robert E. Goodwin, 'Utility And The Good', in *A Companion To Ethics*, ed. by Peter Singer (Malden, MA; Oxford; Victoria: Blackwell Publishing, 1993), pp.241-47

¹⁷ Bernard E. Rollin, *Animal Rights & Human Morality*, 3rd edn. (New York: Prometheus Books, 2006), Chapter 1, Section 37, para. 2. Kindle ebook.

Here one comes up against Hume's objection to passing from 'is' to 'ought' – the idea that one can move from the facts about an actual situation to determine what it 'should' be.¹⁸ I am not challenging the logic of this but arguing for the existence of an innate apprehension of a gap between anticipation and actuality – which we express as 'ought' or 'should'. For instance, if some of the risers in a staircase have collapsed, we say that the steps are missing, to imply that they *should* be there. Moreover, through experience, we generalise events into a background gestalt of 'correct' circumstances against which such aberrations become apparent. Thus, in situation X, Y but not Z is needed or required. While this may involve deduction (when solving 'missing number' problems in IQ tests, for instance), this is not always essential. For instance, a false note in a musical scale offends our ears, even if we do not know why. Thus, it is intelligible to say, for instance, 'F *should* be sharp in the key of G'.¹⁹ In that sense (*pace* Korsgaard)²⁰ 'should' has an objective dimension in our shared apprehension of the relationships between things and events in general – an understanding without which we could not make sense of the world.

Furthermore, I contend that this sort of innate sense of 'what should be' is not unique to humans, but rather a perception common to all beings capable of knowing their own interests. In sentient nonhumans, such as rats, chimps and dogs this is suggested by their upset and confused reactions to thwarted expectations, such as anticipated food rewards being withheld after completing experimental tasks.²¹ Even more significantly, for instance, chimpanzees – who often share food – react negatively to conspecifics being given better food rewards or treats than they receive themselves – a phenomenon known as 'inequity aversion'.²² It is difficult to explain such behaviour without appealing to some innate sense of parity, fairness, of how things 'should be' in relation to this self and other beings – the sense that there are rules about how we do things together.

Here I am simply positing the generic idea of natural, other-related imperatives and norm-like (rather than 'law-like') constraints in relation to the interactivities between conscious lifeforms – somewhat distantly akin to the concept of

¹⁸ G. E. M. Anscombe, 'Modern Moral Philosophy', *Philosophy*, 33:124 (1958), 1-19 (pp.7-9) <<https://jstor.org/stable/3749051>> [Accessed 2 May 2022].

¹⁹ It is acknowledged, however, that the 8-tone musical scale is not common to all cultures.

²⁰ Korsgaard argues that the 'ought' cannot exist without 'some guarantee that morality and nature fit together somehow', which would require some sort of theological underpinning. Korsgaard, *Fellow Creatures*, p.218. This is a central issue in natural law theory, to be visited in Chapter 10.

²¹ Donald R. Griffin, *Animal Minds: Beyond Cognition To Consciousness* (Chicago and London: University of Chicago Press, 2001), pp.129-30.

²² Frans DeWaal, *Primates And Philosophers: How Morality Evolved*, ed. by Stephen Macedo and Josiah Ober (Princeton and Oxford: Princeton University Press, 2006), pp.39-49. See also Sarah F. Brosnan and Frans B. M. de Waal, 'Monkeys Reject Unequal Pay', *Nature*, 425 (2003), 297-99.

intersubjectivity²³ in philosophy, psychology and social theory. For this, I would suggest the neologism, ‘*respectivity*’, from the root term ‘respect’ to indicate principles implicit in the condition of ‘existing in relation to’ one another.²⁴

The justification for this neologism is that it could also be applied equally to indicate both human and nonhuman moral (or morally-equivalent) behaviours, with human morality being one particular form of it. Thus, in the ensuing discussion of nonhuman behaviour, I am using ‘proto-morality’ merely as a conventional distinction from human morality, but without necessarily accepting the exclusivist and humanocentric characterisation of moral behaviour which it assumes.

Animals, altruism and proto-morality

Various pioneering researchers including Frans DeWaal, David DeGrazia, Mark Rowlands, Steven Sapontzis and Marc Bekoff have garnered mounting evidence that various animal species exhibit reciprocal altruism – a form of ‘proto-morality’,²⁵ which parallels human moral behaviour in many important respects. At present, it is generally doubted that animals have human-equivalent mental processes associated with assessing the good or making ‘rational’ moral decisions, even though they seem to be capable of benevolent actions. However, on the basis of evolutionary biology and neurological make-up (see Chapter 3), we can highlight analogous social instincts and shared forms of behaviour, which seem to play a part in how we treat one another, such as fair play, protectiveness, helpful behaviour and even self-sacrifice for strangers.²⁶ And for DeWaal, ‘[This] capacity to care for others is the bedrock of [our] moral systems’.²⁷

On this view, our moral deliberations could be seen rather as elaborations of capacities that seem to be naturally present in many other social animals,²⁸ which

²³ For a useful, brief definition, see *Oxford Reference* (Oxford University Press) <<https://www.oxfordreference.com/view/10.1093/oi/authority.20110803100008603>> [Accessed 19 May 2022].

²⁴ ‘*Respectivity*’ could also be seen as analogous to the law-like governance of relations between unconscious or even non-living entities from atoms to solar systems: the various bodies exist in a state of respectivity to one another (for instance, in terms of relative distance, gravitational pull, perturbation, size, etc). I will be using the term in various contexts in later chapters.

²⁵ Bekoff and Pierce note that most academics and scientists avoid the term ‘morality’ in relation to animals, and ‘proto-morality’ is the preferred term. See Bekoff and Pierce, *Wild Justice*, p.10.

²⁶ Sapontzis considers that animals are capable of moral acts – they can possess virtue. S. F. Sapontzis, *Morals, Reason, And Animals* (Philadelphia: Temple University Press, 1987), p.217.

²⁷ Frans DeWaal, *Good Natured: The Origins Of Right And Wrong In Humans And Other Animals* (Cambridge, Massachusetts and London: Harvard University Press, 1996), p.88.

²⁸ Bekoff and Pierce, *Wild Justice*, p.107.

was Darwin's view;²⁹ thus we appropriate as 'uniquely human' what many other sentient species do ordinarily. Certainly, human morality can involve much more complex issues, which may require proportionately complex deliberation and reflection. But this does not necessarily make it a definitive requirement. Substantive differences in cognitive capacity and biological characteristics between species need to be taken into account. One could not reasonably expect a lion or a shark to stop killing prey or a bonobo to practise monogamy. But this is not to concede that they are therefore immoral,³⁰ nor to argue for a subjectivist or non-cognitivist account of morality.³¹ As Bekoff and Pierce see it, 'Animals don't have to be moral agents in the same sense that humans are: moral agency is both species-specific and context specific. Furthermore, animals are moral agents within the limited context of their own communities'.³²

A notable instance (see Chapter 3) is that social animals such as chimpanzees and wolves show fairness and react negatively to unfair and selfish behaviour,³³ including when playing.³⁴ They act as though they are deferring to a set of shared rules of right behaviour, which seemingly underpin and inform their communities and their lives, and which we would readily frame as moral norms in relation to human beings. And if such norms do exist, it is arguable that we ourselves violate some underlying natural and implicit proto-moral code when we arbitrarily harm and kill nonhumans who are themselves bound not to behave likewise. If we fall short of the minimum standards governing beings whom we consider to be our inferiors, we also fall short of higher standards that we claim to uphold ourselves. A chief of police found guilty of corruption or criminality would not be demoted but disqualified from serving in the force at all: they would have fallen short of the basic common standards expected of even the most junior constable.

An illustration here would be the rhesus monkeys who refused to electrocute their cage-mates in the famous Milgram conformity experiments. If Schopenhauer was correct in saying that we are moral only when we act with no

²⁹ Bekoff and Pierce, *Wild Justice*, p.107. See also Charles Darwin, *The Descent of Man* (1871), and other works, referred to in James Rachels, *Created From Animals: The Moral Implications Of Darwinism* (Oxford: Oxford University Press, 1990), pp.158-60.

³⁰ For Bekoff and Pierce, an obligate predator behaves amorally when they kill their prey. Bekoff and Pierce, *Wild Justice*, p.145.

³¹ Essentially, that morality does not consist in absolute, objective, universal truths (or 'moral facts') but is, rather, an expression of personal convictions, social norms or accepted conventions. See James Rachels, 'Subjectivism', and Michael Smith, 'Realism', in *A Companion To Ethics*, ed. by Peter Singer (Malden, MA; Oxford; Victoria: Blackwell Publishing, 1993).

³² Bekoff and Pierce, *Wild Justice*, pp.144-45 and p.147.

³³ David DeGrazia, *Taking Animals Seriously: Mental Life And Moral Status* (Cambridge, New York, and Melbourne: Cambridge University Press, 1996), pp.200-03. See also Bekoff and Pierce, *Wild Justice*, pp.5-7; DeWaal, *Good Natured*, p.160; DeWaal, *Primates And Philosophers*, pp.44-49.

³⁴ Described as 'a window into animal morality'. Bekoff and Pierce, *Wild Justice*, pp.116-21 and p.127.

thought of self or gain, it seems that the monkeys acted morally and the humans in similar experiments did not: in refusing food, the monkeys' concern for their fellows apparently overrode their own self-interests in that moment.³⁵ The monkeys chose to starve rather than hurt their fellows; the human subjects agreed to kill merely out of deference to authority figures.³⁶ This, I think, questions Korsgaard's suggestion that (in view of humans' self-reflexivity) non-humans probably do not share our understanding of the true reality of the 'otherness' of others that underlie our moral responsiveness³⁷ - at least in relation to some species.

It is significant here that it is not usual for nonhuman species to harm or kill other creatures for no purpose beyond the act of killing itself. Conversely, human beings are capable of behaving far more violently and cruelly than nonhumans, often for trivial and arbitrary reasons. As Humphrey Primatt remarks:

Noxious animals' (unlike noxious people) do not cause harm just for the sake of it, but only in their defence or necessity. Indeed, for one offence by them we return it a thousandfold. In fact, many animals powerful enough to kill humans do not even fight back when wantonly abused by humans – we could learn lessons of meekness and fortitude from them! But mostly humans exert their power over animals that cannot fight back against them, nor even try.³⁸

This is not to suggest that all, or even a large minority of humans are actually malign but rather to look honestly at the way in which malignancy seems to prevail in the human collective as a kind of disproportionately dominant norm. We need explicit instructions in behaviour that comes naturally to other species; we need written-down laws and the threat of punishment to restrain our predilection to harm and kill other beings with whom we share the world.³⁹

³⁵ Referenced in various sources. See Evelyn B. Pluhar, *Beyond Prejudice: The Moral Significance Of Human And Nonhuman Animals* (Durham and London: Duke University Press, 1995), p.56. See also, for example, Joan Dunayer, *Speciesism* (Derwood, Maryland: Ryce Publishing, 2004), pp.26-30.

³⁶ Bernard Williams considers that many philosophers underestimate the role played by the desire to conform to the group. Williams, *Morality*, p.18.

³⁷ Korsgaard, *Fellow Creatures*, p.50.

³⁸ Humphrey Primatt, *The Duty Of Humanity To Inferior Creatures*, abridged by the Rev. A. Broome, Founder of the SPCA (London: Nisbet, 1831), pp.28-29. Google Play ebook <https://play.google.com/books/reader?id=XLxYAAAAcAAJ&pg=GBS.PA128&hl=en_GB> [Accessed 3 June 2022].

³⁹ Hobbes thought the litmus test of morality was how humans behave in a time of great scarcity but Williams argues that this misleads us as to normal human behaviour. Williams, *Morality*, p.9. However, Schopenhauer argues that our laws and conventions merely disguise 'the real immorality of mankind'. Arthur Schopenhauer, *The Basis Of Morality*, tr. by E. F. J. Payne, (The Jovian Press, 2017), Part III, Chapter II, Section 1, para. 9. Kindle ebook.

It would be unfair to deny our good instincts, but as a highly-evolved social animal gifted with higher reason, it seems inexplicable that violent or harmful instincts are apparently so deeply embedded in human nature that we are forced to devise systems to hobble our worst excesses in the interests of our collective survival. Humans are capable of killing not just in the heat of the moment but in cold blood; we can kill remotely, calculatingly, or even without being directly involved - capacities which somehow co-exist with (and to an extent are mitigated by) our capacity for good.⁴⁰

This is not to deny that nonhumans also cause harms. Aside from the universal phenomenon of predation, as Korsgaard points out, many nonhumans behave 'immorally' – through infanticide and cannibalism, for instance - but they cannot reasonably be held responsible for what are ultimately instinctual behaviours over which they have no control.⁴¹ These could be classed as natural rather than moral evils. This parallels the observation in Chapter 5 that, while nonhumans compete with others for territory, food and other needs,⁴² this is governed by their inherent limitations and the givens inherent in nature. No creature can exceed the limit of what nature *naturally* provides.

However, it must be acknowledged that the predominant existence of natural evils such as predation are problematic for this thesis, in that it implies a kind of 'curate's egg' conception of the good in nature (i.e., 'it is good in parts'). Despite this, however, other species, continue to realise those goods that do exist, as far as nature allows, and according to their own natural capacity. By contrast, I am contending, the supposed advantages of human morality do not translate into proportionately higher goods in the wider natural world; and indeed, the impact of our collective behaviour is such that we compound extant natural evils rather than ameliorating them. This is not to argue, necessarily, that humans fall short of some ultimate and ideal good, but rather in relation to our own privileged capacity to defy natural restrictions that govern other creatures who do not have

⁴⁰ This is a very basic summation of the subject of Richard Wrangham's book, *The Goodness Paradox* – i.e., the existence of the human capacity for good and peaceable behaviour despite an evolutionary capacity for aggression and violence. Richard Wrangham, *The Goodness Paradox: How Evolution Made Us Both More And Less Violent* (New York: Pantheon, 2019). See also Richard W. Wrangham and Dale Peterson, *Demonic Males: Apes And The Origins Of Human Violence* (Boston: Houghton-Mifflin, 1996).

⁴¹ Korsgaard, *Fellow Creatures*, p.57.

⁴² For a very useful and concise discussion of animal and human aggression, see 'Rage, Dominance And Cruelty In Peace And War', in Jeffrey Masson and Susan McCarthy, *When Elephants Weep: The Emotional Lives Of Animals* (London: Vintage, 1996), pp.72-96.

the benefit of such a capacity.⁴³ I do not think this charge of ‘falling short’ can justly be levelled at any other known species.⁴⁴

In relation to animal behaviour in general, ‘sensible’ or ‘sane’ seem to be apposite descriptors. Animals are commonly held to be incapable of reason, and yet somehow their behaviour bears all the hallmarks of reasonableness. Animals demonstrate ‘rightness’ rather than moral calculation. They may lack humans’ cognitive and moral sophistication, but they exhibit a degree of native *phronesis* – a straightforward readiness to gauge and satisfy what a situation requires, including what we would class as moral situations.⁴⁵ They are not infallible, but again, they do not ‘fall short’ of their capacities as humans do. Mostly, in nature, they live their default proto-morality in a way that (most of us) only think ours; and yet, somehow, most seem to achieve this without necessarily having the capacity for abstract-reflexive thought commonly associated with humans.

Again, this is not to imply that nonhumans intentionally or even knowingly ‘do good’, but that good manifests through their actions by default, rather than arising from conscious virtue. What they are and what they do are entirely commensurate; they are embedded in the life of the natural world and exist as both components and exponents of that world, as naïve ‘servants of the good’. Humans by contrast, are conditioned by fact that they are free to choose to make and break rules in ways that animals cannot; we are, literally and metaphorically, the only animal that can escape the earth’s gravitational pull: thus we must necessarily impose moral norms on ourselves to contain us in the way that merely emulates the way that other beings are contained by nature itself (see Chapter 5).

The insistence on reason

Nevertheless, there remains the common perception that there is within humans a special dimension: that our moral actions must be operating on a categorically different level from equivalent behaviours exhibited by nonhumans. Thus, despite the apparent similarities indicated above, the prevailing view is that animals’ basic form of altruism is merely a kind of repertoire provided by instinct or conditioning,

⁴³ This is similar to the idea expressed in the Bible: ‘To whom much is given, much is required’. Luke: 12:48, Revised Geneva Translation (RGT), *BibleGateway* <<https://www.biblegateway.com/passage/?search=Luke%2012:47-49&version=RGT>> [Accessed 11 June 2022]. The wording varies somewhat between different versions of the Bible.

⁴⁴ Henry Fielding runs the apposite quote, ‘None are for being what they are in fault/But for not being what they would be thought’ in the Preface to his 1742 novel, *Joseph Andrews*. See *Bartleby* <<https://www.bartleby.com/39/26.html>> [Accessed 15 June 2022].

⁴⁵ See Aristotle, *Ethics*. See also John McDowell, ‘Virtue And Reason’, in *Virtue Ethics*, ed. by Roger Crisp and Michael Slote (Oxford University Press, 1997), pp.141-43. McDowell describes it as ‘sensitivity to the situation’.

in contradistinction to true morality which, according to Kant (among others), requires the faculty of reason.⁴⁶

While I dispute that morality is derived from reason in this way (and Hume provides a comprehensive rebuttal in the *Treatise*),⁴⁷ I do not think it is the case that it plays no role at all in our moral decisions. Thus, I would not quite agree with Schopenhauer that reason and virtue should be kept separate (he criticises Kant for linking them)⁴⁸ but rather with Michael Reiss's view that reason has its place but is not sufficient to provide a solid basis for ethics.⁴⁹ Certainly, it becomes deeply problematic to claim that it is an absolute and primary requirement. For if morality is a product of reason alone, and yet we deny reason to animals, how do we account for animals' 'morally-equivalent' behaviour? If we say it is mere instinct, then it could equally be 'mere instinct' in human beings as well. And if morality is produced by reason alone, it could be argued that when humans act immorally they are (by that fact) not acting in accordance with reason or lack reason.⁵⁰ (I will come back to this point in Chapter 10.)

An obvious objection here is that (human) morality and (animal) proto-moral behaviour are not necessarily the same thing. However, this presupposes what it would prove: that only humans can be moral beings. A more parsimonious view, again, is that proto-moral behaviours are apparent in other species because they involve a common capacity, which – like other cognitive capacities - has arisen through evolution. Indeed, in the light of modern discoveries of brain structures such as 'mirror neurons' (associated with altruistic behaviour) in a variety of species,⁵¹ it is plausible that this motive could have evolved similarly in all sentient species: there may indeed be some kind of cognitive and behavioural common

⁴⁶ Introduced in Kant's *Groundwork Of The Metaphysics Of Morals* (1785) and developed in the *Metaphysics Of Morals* (1797). Immanuel Kant, *Groundwork Of The Metaphysics Of Morals*, ed. by Mary Gregor and Jens Timmermann with an introduction by Christine M. Korsgaard (Cambridge and New York: Cambridge University Press, 2012).

⁴⁷ David Hume, *A Treatise Of Human Nature* (Wentworth Press, 2016), Book III, Part I, Section 1 ('Moral Distinctions Not Derived From Reason'). Kindle ebook.

⁴⁸ Arthur Schopenhauer, *The Basis Of Morality*, tr. by E. F. J. Payne (The Jovian Press, 2017), Part II, Chapter IV, para. 27. Kindle ebook.

⁴⁹ Michael J. Reiss, 'Educating Scientists About Ethics' in *Animals, Ethics And Trade: The Challenge Of Animal Sentience*, ed. by Jacky Turner and Joyce D'Silva (London; Sterling, VA: Earthscan, 2006), p.58.

⁵⁰ A comparable point is made by Rollin in *Animal Rights & Human Morality*, Chapter 1, Section 20, para. 1.

⁵¹ Sometimes known as 'Gandhi' neurons. See Bekoff and Pierce, *Wild Justice*, p.100; and Carl Safina, *Beyond Words: What Animals Think And Feel* (London and New York: Souvenir Press, 2015), p.280. See also Chapter 3 of this thesis.

denominator, other than reason, that underpins spontaneous feelings of concern for others and the impulse to act for good.⁵²

Here, one only need reflect on the emotive terms we typically use in relation to moral infractions: we are *angry* at wrongdoing; we '*hunger and thirst*' for what is right;⁵³ we *feel for* others who are suffering; we experience *pangs* of guilt or conscience; we *hate* cruelty; we *cannot rest* until justice is done. Indeed, as Hume reflects, even fictional dramas elicit such responses in us.⁵⁴ Sometimes, actors who play soap-opera villains are abused in the street because viewers are incensed at the behaviour of their on-screen counterparts.

This seems to accord with Schopenhauer's argument that Kant's system of rules cannot be the impulse to act justly and do good, and that this impulse 'must be something that requires little reflection'.⁵⁵ Lori Gruen similarly questions the notion of reason as the sole motivator of human behaviour (and raises the question of why people can understand Peter Singer's arguments, but still eat animals). For Gruen, emotions such as sympathy or outrage play an important role too but, in her view, 'Philosophers have set up an unnecessary dichotomy between reason and emotion'.⁵⁶

Admittedly, one can see how the emotive moral impulse, left to itself, could be problematic, so it may be that the role of reason in humans is to govern, modify, even restrain, this impulse. Roughly, 'Here is a moral feeling, but how should I act upon it?'.⁵⁷ Ideally, the two things must work in tandem, which seems to be the intent of Henry Salt's intuition that, 'Reason itself can never be at its best, can never be truly rational, except when it is in perfect harmony with the deep-seated emotional instincts and sympathies which underlie all thought'.⁵⁸ This echoes

⁵² Interestingly, Hume considers that the feelings underlying our moral determinations are derived ultimately from 'the original fabric and formation of the human mind', which nowadays seems to accord with an evolutionary biological account. David Hume, *Enquiry Concerning The Principles Of Morals* (<www.WealthofNation.com> 2015), Section I, para. 5. Kindle ebook. (I will return to this point in Chapter 10.)

⁵³ Matthew, 5:6, NEB. *The New English Bible*, with illustrations by Horace Knowles (The Bible Societies in association with Oxford University Press and Cambridge University Press, 1972).

⁵⁴ Hume, *Enquiry*, Section V, Part II, paras 10-14. See also Hume, *Treatise*, Book II, Part II, Section VII, paras 1-3.

⁵⁵ Schopenhauer, *The Basis Of Morality*, Part III, Chapter I.

⁵⁶ Lori Gruen, 'Animals', in *A Companion To Ethics*, ed. by Peter Singer (Malden, MA; Oxford; Victoria: Blackwell Publishing, 1993), p.351.

⁵⁷ This seems to be consonant with Hume's account in the *Treatise* – i.e., reason does not provide the will to act but provides information that may help determine *how* we act in response to a moral feeling. See Rachel Cohon, 'Hume's Moral Philosophy', Section 2, *The Stanford Encyclopedia Of Philosophy*, ed. by Edward N. Zalta (2018) <<https://plato.stanford.edu/archives/fall2018/entries/hume-moral/>> [Accessed 25 June 2022].

⁵⁸ Henry S. Salt, *Animals' Rights In Relation To Social Progress* (New York: Macmillan & Co., 1894), pp.90-91. *Internet Archive* ebook <<https://archive.org/details/animalsrightsc00salt/page/n7/mode/2up>> [Accessed 23 May 2022].

Bernard Williams' view that Aristotle's thought focused too much on man's capacity for rational thought (at the expense of other traits such as creativity) – leading to a 'false and inhuman view of the passions themselves'.⁵⁹

A further, and particularly deleterious aspect of Kant's insistence on reason as a moral benchmark is that it creates a spurious category distinction between humans and all other 'unreasoning' beings (see Chapter 5), which provides the criterion from which to make equally spurious value judgements about them. As Korsgaard notes, Kant's insistence on rationality 'confers a kind of intrinsic value on the beings who have it': but this does not explain what kind of value this gives to rational beings.⁶⁰

More objectionable still is that Kant's idea that reason elevates humans above all other beings leaves animals as 'things' that we may use.⁶¹ This in turn entails the notion – which Schopenhauer describes as 'odious and revolting'⁶² – that, on the basis of reason, humans have direct moral duties to other humans but only indirect duties to other animals. Korsgaard regards Kant's indirect duty view of animals (seen as mere 'analogues' of humans) as almost incoherent: he urged us to 'love' animals, but that would require us to see them as inherently valuable. Similarly, if it is 'intelligible' to give an old horse a comfortable retirement (in recognition of its service) this begs the question of why we do not owe this directly to the horse itself.⁶³

Korsgaard here also makes the important and wider claim against Kant, that animals are ends in themselves, regardless of Kant's requirement of reciprocity: what is good for them is good absolutely. Many of the basic things that are good for animals are good for us too in our capacity as animals (rather than autonomous rational beings).⁶⁴ This latter point is pertinent to the notion of common goods in the context of natural law theory, which will be discussed in Chapter 10.

Kant and 'holiness'

For Kant, the faculty of reason is contrasted with 'holiness' (a kind of innate goodness) which, traditionally, originates from God, and also pertains to moral

⁵⁹ Williams, *Morality*, pp.60-61.

⁶⁰ Korsgaard, *Fellow Creatures*, p.132.

⁶¹ Ibid., pp.96-98.

⁶² Schopenhauer, *The Basis Of Morality*, Part II, Chapter VI, para. 1. Kindle ebook.

⁶³ Korsgaard, *Fellow Creatures*, pp.102-04. Korsgaard also points out that Kant himself personally opposed all forms of animal cruelty.

⁶⁴ Ibid., pp.141-44.

saints and animals.⁶⁵ However, for Kant, holiness is a product of, and manifested through reason. Thus, even though God is still the ultimate good, and therefore the ultimate source of holiness, only the possession of reason enables this good to be realised in the world.⁶⁶

However, there are problems with this ‘top down’ notion of morality – a notion which has fetishised pro-social or moral behaviour into an exclusively human property that we believe distinguishes us from all other lifeforms. For if pro-social behaviour is largely shaped by evolution then it is a kind of ‘bottom up’ phenomenon: we share with other sentient species a basic apprehension of what is good for us, and also for others, but the difference is that humans are able to manipulate this knowledge on an abstract, conceptual level, in a way that other beings cannot.

There are parallels here with the previous discussion (in Chapter 3) regarding humans’ capacity for higher reflexivity, or being phenomenologically or ‘consciously’ conscious, in that this capacity, by extension, enables us to be ‘phenomenologically moral’. But this again confuses *post hoc* cogitation with the very source of morality. We may have the power to reason about abstract moral issues, to give them shape, direction and form, but reason itself is not what makes that reasoning *moral*.

Here I would suggest an analogy (for the holiness-reason dichotomy) with the interrelationship between a river and the riverbank: the flow of water ‘carves out’ the riverbank, while the riverbank simultaneously contains and directs the course of the water. In relation to this analogy, Kant’s peculiar view of reason as the defining realisation (*real*-isation) of holiness, is rather like claiming that rivers are merely precursors to canals – indeed, that only canals really *are* rivers.

However, this is not to deny the significance of the difference between human and nonhuman cognitive capacities. Indeed, Schopenhauer distinguishes between animals’ intuitive cognitive processes – which do not include abstract thought - and the human intellectual faculty (*vernunft*) which does, and thus gives humans an independence that animals do not have.⁶⁷ This seems to provide some basis for Kant’s claim that animals cannot be full moral beings because they cannot pursue attempts to fulfil ‘an ideal way of life’.⁶⁸ But here one could argue (see

⁶⁵ Noted by Sapontzis, *Morals, Reason, And Animals*, p.44. Sapontzis argues that, using Kant’s criteria, God would not be a fully moral being.

⁶⁶ Ansgar Lyssy cites the *Critique of Practical Reason* (1788), 5:87, and other sources. A. Lyssy, ‘Beyond Our Given Nature: Kant On The Inviolable Holiness Of Humanity’. See A. Lyssy and C. Yeomans, eds, *Kant On Morality, Humanity, And Legality* (Palgrave Macmillan, 2021) <https://doi.org/10.1007/978-3-030-54050-0_8>.

⁶⁷ Schopenhauer, *The Basis Of Morality*, Part II, Chapter IV, para. 27.

⁶⁸ Sapontzis, *Morals, Reason, And Animals*, pp.43-44.

Chapter 4) that this same capacity incurs an exponentially higher degree of moral responsibility on our part: if we are 'phenomenologically moral', we have less excuse to act badly and a greater obligation to act for good. But in practice, it is questionable whether this takes us beyond the kind of ordinary proto-moral behaviour apparent in nonhumans; whether it makes us better, rather than merely functional beings.

Against the Kantian view, I contend that it is through the artifice of reason (and particularly the misuse thereof) that humans have become 'unholy'. That is, in becoming over-dependent on this one faculty we do not give proper scope to the moral impulse; we obscure in ourselves the ability to respond artlessly and wholly to a moral situation, to act with no calculation of self-interest. (For Schopenhauer, Kant's moral system rests entirely on self-interest and reciprocity.)⁶⁹ To be holy is to be in the moment and wholly attuned to what that moment requires – not disinterestedly weighing up advantages or compensations for oneself in relation to benefits to others.⁷⁰ When we are truly moral, for Schopenhauer, we calculate least. The true moral quality of an action is defined by its other-directedness, the absence of self. And here, Hume disagrees that all human virtue is driven by self-interest: rather, human benevolence is real and our good qualities can be recognised through experience and observation.⁷¹

The familiar example here is of selfless actions in an emergency – risking one's life to save strangers from burning buildings or frozen lakes. People who act heroically sometimes report afterwards that they temporarily forgot themselves, enabling them to act more precipitously than if they had had paused to consider the risks to themselves – which is the role of reason. In such emergencies, some kind of autonomic reflex seems to short-circuit ordinary deliberation, saving valuable seconds when indecision might cost lives; and, crucially, it seems not to distinguish between the loss of your life or my life.

This is not to deny that reason equips us to judge and work towards optimal outcomes in human affairs or to avoid making mistakes. But this may then characterise morality merely as a kind of good practice, a transactional choice, a mutually beneficial way of managing affairs with others. Williams makes a crucial and telling distinction here between morality and prudence: essentially between the ideal and the pragmatic, which corresponds with the difference between

⁶⁹ Schopenhauer, *The Basis Of Morality*, Part II, Chapter V, para. 3.

⁷⁰ Schopenhauer repeatedly states that morals are not derived from pure reason and considers that Kant's system is actually derived – without Kant's acknowledgment – from theological morals. Schopenhauer also argues that the absence of animals from Kant's system actually showed its dependency on Christian theology. See, for instance, Schopenhauer, *The Basis Of Morality*, Part II, Chapter VI, para. 1; *Ibid.*, Part II, Chapter VI, para. 10.

⁷¹ Hume discusses the subject of sympathy with others at length in the *Enquiry Into The Principles Of Morals*, Section V, 'Why Utility Pleases', Parts I and II.

(respectively) other-interestedness and self-interestedness.⁷² And here (aligning appositely with Schopenhauer's similar claim), 'Nothing motivated by prudential considerations can be genuinely moral action'.⁷³

If we keep apart the concepts of 'moral' and 'prudent', it seems to de-complicate various ethical problems that might otherwise be intractable. Thus, for instance, the received moral (prudential) justification for the bombing of Hiroshima was that it ended the war sooner and, despite the immediate death toll, saved many more lives in the long run. But from a purely moral (ethical) viewpoint – for instance, the deontological notion of 'thou shalt not kill' – the bare fact of mass homicide was not 'nilled out' by numerical reckoning and the strategic outcome.

In other words, an act can be prudentially right but morally wrong. Whatever necessity is claimed does not change the moral condition of the act. Harms to being A are not reversed or negated by benefits to being B. Similarly, for example, even if certain fatal vivisection experiments could be shown to save future lives, this would not justify the taking of other lives instead (see Chapter 1): they would be prudentially but not morally justifiable. At the same time (in relation to the question considered by Williams)⁷⁴ I do not think that moral and prudential action are necessarily mutually exclusive: what matters ultimately is whether we seek to avoid causing harms.

Non-harm and realising the good – Eastern and Western perspectives

If we were able somehow to capture the selfless moments referred to above, I think we would see morality in its essence and at source, for we see similar actions among various species: dogs and even wild animals sometimes risk their lives to save humans (and other animals) and vice versa. And, possibly, if we all lived in such instinctively 'self-amnesiac' states all the time, we would be moral saints by default, acting for others exactly as we would for ourselves – or even no longer seeing others as others.

The sentiments above are implicit as ideals in Eastern transcendentalism – enshrined in the familiar greeting, *namaste* ('I bow to the divine in you')⁷⁵ – as well

⁷² Williams, *Morality*, p.30 and p.63.

⁷³ Ibid., p.65.

⁷⁴ Ibid., p.65. Williams seems to say that the two things need to be distinguished to a certain degree but not separated absolutely.

⁷⁵ See Meriah McCauley, 'Namaste Meaning', *Anahana* (updated 4 November 2024) <<https://www.anahana.com/en/wellbeing-blog/yoga/namaste-meaning>> [Accessed 15 December 2024].

as more mystical interpretations of other religious traditions. To honour and respect the other is to honour oneself equally, with no place for relativistic schemes of value. And in that radical perceptual shift, all selves are, ultimately, myself. All that happens to them – including harms - happen to this self, myself.⁷⁶

This notion dovetails into the central concept of non-harm (*ahimsa*)⁷⁷ in Eastern philosophy (introduced in Chapter 2), which is implicit (and oftentimes explicit) in much modern animal rights discourse. Although Western moral thought has a concept of nonmaleficence, it has no equivalent universal active principle akin to *ahimsa*. And while animal ethicists have argued persuasively for the inclusion of animals in Western moral systems, this resolves into a kind of provisional, secondary or honorary moral status for them; there is no unconditional respect for other conscious beings – which Schopenhauer sees as ‘the failure to recognise the eternal reality immanent in all life’.⁷⁸

By contrast, *ahimsa* recognises the sanctity of *all* life. And the instruction is implicit in the term itself: not to cause harm.⁷⁹ Harms caused to sentient beings *are* the measurable consequences of wrong action, and the reason for such actions being wrong in the first place. In this sense, *ahimsa* seems to contain parallels of two key elements of Western moral thought. It is comparable to consequentialism in that the latter makes our actions significant in their capacity to reduce harms and increase the good.⁸⁰ At the same time, it appears implicitly (but secondarily) deontological, in that this in itself imposes a moral duty on us to obey these directives. As the ancient Jainist scriptures say, ‘*ahimsa* is the highest religion’ (or ‘law’). In other words, all else is subservient to it.⁸¹

I have of course greatly simplified and decontextualised one fundamental element of Eastern thought, to make the point. Nevertheless, it is highly significant that the main pillars of Western secular moral systems so pointedly lack – indeed *resist* - an equivalent to a comprehensive and ancient principle which is sacred to a very large proportion of humanity. It is worth briefly unpacking the issues arising from this point a little more to see how they work against the inclusion of nonhuman interests.

⁷⁶ This differs from the notion that caring about others’ pain is an extension of caring about one’s own (which could still be seen as an egoic concern). See Williams, *Morality*, p.68.

⁷⁷ See, for instance, M. Hiriyanna, *Outlines Of Indian Philosophy* (Delhi: Motilal Banarsidass Publishers, 2009), p.23, p.92, and p.167 ff.

⁷⁸ Schopenhauer, *The Basis Of Morality*, Part II, Chapter VI, para. 1.

⁷⁹ Hiriyanna, *Outlines Of Indian Philosophy*. (Page references as above.)

⁸⁰ (My interpretation with regard to *ahimsa*.) See Nancy Ann Davis, ‘Contemporary Deontology’, in *A Companion To Ethics*, ed. by Peter Singer (Malden, MA; Oxford; Victoria: Blackwell Publishing, 1993), p.209.

⁸¹ Quoted by Jeffrey Masson in *The Face On Your Plate: The Truth About Food* (New York: Norton, 2009), p.27.

Deontology

From Nancy Ann Davis's very useful exposition, deontology regards things such as lying or murder as not just bad but wrong: they must not be done in any circumstances,⁸² and thus deontology is often presented in terms of 'thou shalt not' do this or that.⁸³ This admits of no latitude, so, for instance, we may not harm one innocent person even if it would save many lives.⁸⁴

Thus, deontology provides unequivocal principles but does not say exactly how to observe them.⁸⁵ This is analogous to the 'I before e except after c' rule, which is sometimes inappropriate, but we cannot know when, on the basis of the rule. For instance, it would be wrong to lie, even to save others' lives, in situations such as the hypothetical 'innocent fugitives hiding in the basement' conundrum. In this way, deontology could be seen as a provisional and limited moral system, which does not equip its subscribers to make independent and mature moral judgements for themselves, especially when rules conflict.

In its defence, certain aspects of deontology would accord with the rights arguments in Chapter 1 (against benefiting from vivisection, for instance): thus, even if harming animals could benefit humans, it would still be wrong to do so. It would also support the idea of mercy as a duty, which was discussed in Chapter 4. Indeed (with due credit to Rowlands),⁸⁶ recognising mercy as a duty is close to *ahimsa* in principle, for by virtue of its generality it requires the actor to consider the harms arising from their actions, not simply to apply pre-set rules. In other words, deontology becomes coherent if it is apparent why the rules exist - what they are ultimately aiming to achieve.

Without this requirement, deontology can lead either to extreme pedantry ('the letter of the law') or moral detachment ('I was only following orders') – aided by loopholes that excuse or justify harmful actions which are not expressly forbidden by the rules. As Nancy Ann Davis explains, 'Deontology places more emphasis on *our* doing something wrong rather than whether it "happens" or not'. Thus, we only violate it if we cause intentional harm, not if we fail to act to prevent it.⁸⁷ (This may explain why most people have no moral qualms about buying and

⁸² Nancy Ann Davis, 'Contemporary Deontology', in *A Companion To Ethics*, ed. by Singer, p.205.

⁸³ Ibid., p.208. Similarly, G. E. M. Anscombe notes how notions of right, wrong and obligation arose in Judeo-Christian teachings (divine law), which become problematic if one does not believe in God – the divine legislator. Anscombe, 'Modern Moral Philosophy', p.5.

⁸⁴ Davis, 'Contemporary Deontology', in *A Companion To Ethics*, ed. by Singer, p.214.

⁸⁵ Korsgaard, *Fellow Creatures*, p.120. Korsgaard makes this point specifically in relation to Kant's Categorical Imperative, but I think it can also be applied more generally.

⁸⁶ From Mark Rowlands, *Animal Rights: Moral Theory And Practice*, 2nd edn. (Basingstoke: Palgrave, 2009), referenced by Robert Garner, *A Theory Of Justice For Animals: Animal Rights In A Nonideal World* (Oxford and New York: Oxford University Press, 2013), p.70.

⁸⁷ Davis, 'Contemporary Deontology', in *A Companion To Ethics*, ed. by Singer, pp.207-08.

consuming animal products.) However, *ahimsa* does not entertain this dubious get-out clause,⁸⁸ which also deviates from ordinary common sense. Clearly one can be cruel by default (regardless of intention), for instance by carelessly neglecting the needs of domestic pets or farmed animals.

Admittedly, the dynamic ‘double action’ of *ahimsa* – i.e., both to avoid and to act against harms if possible – is not without problems (or at least, problematics). For instance, the Buddhist counsel ‘not to kill, not to allow killing, not to sanction killing’⁸⁹ would be impossible in a theoretical ‘trolley car’ situation: for one could neither act (by killing A to save B), nor fail to act (saving neither). However, I do not think this invalidates it as a guiding moral principle in ordinary rather than contrived situations: to guard against avoidable harms to the best of one’s ability, within the limitations of the situation.⁹⁰

Ultimately, even rules and laws do not seem to bind us without some form of external restraint or penalty. Human morality seems not to be self-enforcing in the way that we see altruistic-prosocial actions at work in animal communities. It is therefore necessary to devise special disincentives and punishments to deal with the inevitable breaches of these rules and laws which are formed from our authoritative notions of the essential components of good and just moral behaviour. But if we are motivated by fear of punishment, this in itself questions the authenticity of our moral motivation.⁹¹

Utilitarianism

On first view, a more *ahimsa*-like approach seems to be offered by utilitarianism, the most familiar form of consequentialism: that is, essentially, the pursuit and evaluation of moral good in terms of intended best outcomes. For Robert Goodwin, it offers a standard for assessing others’ interests alongside one’s own.⁹² Martha Nussbaum, too, thinks that utilitarianism has contributed most to animal ethics, but does not deal adequately with the true complexity of animal lives

⁸⁸ *Ahimsa* also requires us to act positively against harms. See Hiriyanna, *Indian Philosophy*, p.167.

⁸⁹ For summaries and links see, for example, *Dhamma Wiki*, ‘Anguttara Nikaya 3.16’ (updated 5 September 2022) <https://www.dhammadownload.com/index.php?title=Anguttara_Nikaya_3.16> [Accessed 15 September 2022].

The precept in the *Dhammapada* is ‘not to kill or cause to kill’. *The Dhammapada: The Path Of Perfection*, tr. by Juan Mascaro (Penguin Books, 1973), 10 (‘Life’): 129-30.

⁹⁰ Various normally functional systems might be seen to ‘fail’ in extreme cases. For instance, none of the four drivers arriving simultaneously at each of the four arms of a traffic roundabout could (in theory) proceed on the basis of the ‘give way to the right’ rule. But one would not reasonably conclude that the rule was therefore unworkable.

⁹¹ Schopenhauer considered that the dependency of moral obligation (ultimately) on punishment and reward in Kant’s system was activated by self-interest and thus morally worthless.

Schopenhauer, *The Basis Of Morality*, Part II, Chapter II, paras 3-5.

⁹² Goodwin, ‘Utility And The Good’, in *A Companion To Ethics*, ed. by Singer, p.245.

beyond their experiences of pleasure and pain.⁹³ Nevertheless, in its favour, utilitarianism takes seriously the principle of reducing pain and suffering in all beings. And from this it seems that reducing or removing pain should be accorded greater moral weight than increasing pleasure in any utilitarian calculation, as philosophers such as DeGrazia have argued.⁹⁴

However, applying pleasure/suffering as a criterion to determine the relative value of a life - as opposed to recognising inherent value, which characterises the rights view espoused by abolitionists - tends to weigh against nonhumans on the basis of arbitrary assumptions concerning their satisfaction status.⁹⁵ Evelyn Pluhar considers that utilitarianism indirectly places human interests over those of animals,⁹⁶ while Sapontzis highlights ways in which it can be used to justify 'hierarchies' of gratifications – or even (on a Benthamite account) gratifying one's own needs at the expense of others.⁹⁷ On this view, utilitarianism seems not to distinguish between harmful and harmless satisfactions. One can appreciate why, as Davis notes, some think that consequentialism is confused about what it means for anything to be wrong as such.⁹⁸

Crucially – in a way that parallels the exclusivist benchmark of reason in Kantianism – the utilitarian principle of evaluating living beings on the basis of a relative capacity for 'experiencing the good' (that is, applying a differential scheme of values to measure perceived personal 'worth') emphasises in practice the 'otherness' of the Other and the elevation of the self: the idea of having and being not only 'more', but of being distinguished by that fact. Ultimately, to paraphrase (broadly) Celia Deane-Drummond, humans still define what counts, and this background assumption that 'some interests are more equal than others' is conducive to human exceptionalism.⁹⁹

Against the view above, Gruen argues that, 'If one values the life of a being who can enjoy life, then one must value every life of like beings in the same way'.¹⁰⁰ Yet, in the implicit principle that this or that particular satisfaction of my senses or perceived hedonic needs make me 'more' in some way than a less fortunate being, utilitarianism seems to rest on an arbitrary 'face value' of a life. It becomes a

⁹³ Martha Nussbaum, 'The Capabilities Approach To Animal Entitlements', in *The Oxford Handbook Of Animal Ethics*, ed. by Tom L. Beauchamp and R. G. Frey (Oxford and New York: Oxford University Press, 2011), p.235.

⁹⁴ DeGrazia, *Taking Animals Seriously*, p.262. See also Williams, *Morality*, p.82.

⁹⁵ Gruen, 'Animals', in *A Companion To Ethics*, ed. by Singer, pp.346-48.

⁹⁶ Pluhar, *Beyond Prejudice*, pp.198-99.

⁹⁷ See Bentham's footnote, already cited. Sapontzis, *Morals, Reason, And Animals*, p.206 and p.218.

⁹⁸ Davis, 'Contemporary Deontology', in *A Companion To Ethics*, ed. by Singer, p.206.

⁹⁹ Celia Deane-Drummond, 'Natural Law Revisited: Wild Justice And Human Obligations For Other Animals', *Journal Of The Society Of Christian Ethics*, 35:2 (2015), 159-173 (p.160) <<https://doi.org/10.1353/sce.2015.0045>>.

¹⁰⁰ Gruen, 'Animals', in *A Companion To Ethics*, ed. by Singer, p.350.

definable, measurable entity or quantity; thus we can, supposedly, commodify a particular set of happy circumstances, making life itself a kind of consumer product like a package holiday which we can award a certain number of stars in a review.

For Williams, 'Utilitarianism is unsurprisingly the value system for a society in which economic values are supreme';¹⁰¹ and Goodwin similarly critiques the hedonistic version of utilitarianism for its identification of the good as what we desire, or demand as consumers – which he sees as an impoverished theory of the good.¹⁰² This makes more possessions, enjoyments and self-gratifications the defining characteristics of the good life, rather than the defining characteristics of a doctrine in which 'the world is too much with us'.¹⁰³

However, welfare utilitarianism seems to provide an important exception here. This version sees the good in terms of the satisfaction of more general and common (long-term) interests – what people actually need - rather than the satisfaction of individual preferences and wants.¹⁰⁴ As such, it seems to be highly relevant to the 'primary needs' discussion in Chapter 1 and also links these to the common and basic goods aspect of natural law theory, which I will be discussing in Chapter 10.

The value of a life and the cost of dying

Any moral theory that is based on one overarching measure of value risks overemphasising that value in all situations; and in relation to utilitarianism (based on what has been said above) this can entail the devaluation of the individual lives of nonhumans, leading to notions such as the expendability and 'replaceability' of animals in some situations.

This, I think, also underpins perhaps the darkest aspect of utilitarianism, namely the devaluation and derealisation of death in relation to nonhumans. If, on the 'gradualist' view (see Chapter 5), a human life and the interests thereof are 'more' than an animal life,¹⁰⁵ by the same token the death of an animal (*sans* suffering) is proportionately 'less'. And here Bentham asserts that it is justifiable to deprive animals of life because, in his view, 'their pains do not equal our enjoyments',

¹⁰¹ Williams, *Morality*, p.89.

¹⁰² Goodwin, 'Utility And The Good', in *A Companion To Ethics*, ed. by Singer, pp.242-43.

¹⁰³ 'The world is too much with us; late and soon,/Getting and spending we lay waste our powers:/Little we see in nature that is ours'. William Wordsworth, *Selected Poems*, ed. by Damian Walford Davies (London and Vermont: J. M. Dent, 1994), p.295.

¹⁰⁴ Goodwin, 'Utility And The Good', in *A Companion To Ethics*, ed. by Singer, p.244.

¹⁰⁵ DeGrazia, *Taking Animals Seriously*, p.265; and David Copp, 'Animals, Fundamental Moral Standing, And Speciesism', in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, pp.280-81. See also Korsgaard, *Fellow Creatures*, p.60 and p.71.

which is consistent with the utilitarian principle that killing nonhumans is justifiable if it does not involve suffering.¹⁰⁶

However (see Chapter 5), such evaluation is largely suppositious. We do not, as Goodwin notes, have 'utility meters' and can only assume what preferences others have and what satisfactions they are experiencing:¹⁰⁷ we have no idea of the intensity of their enjoyments such that we can say that painlessly killing them is morally acceptable.¹⁰⁸ Likewise, we cannot know the intensity of their suffering.

For any being *in extremis*, losing its life is personal; just as a being cannot live another's life, that being can only die its own death, not death in theory or in general. It has no basis to judge whether it is a worse thing to die as a human being, a dog or another kind of animal: when it dies it loses everything that it has or could have.¹⁰⁹ Just as a full vessel cannot be more full than its own capacity, or more full than another full vessel, neither can it be more empty. (All of this of course is to gloss over the paradox that if one could consciously experience the loss caused by death, one would not be dead. And, conversely, without consciousness, a painlessly euthanised human or animal both undergo a similar 'non-experience' of death.)¹¹⁰

This also leads one to question (as Pluhar and Sapontzis do) the validity of Singer's 'replaceability' argument: the idea that the overall amount of good can be maintained by offsetting or counterbalancing the death of one creature by the birth of another.¹¹¹ The notion of replacing slaughtered animals with equivalent creatures makes them mere instances of a species rather than distinct, individuated living beings: it is not replacement but merely notional substitution. And, logically, there is no reason not to apply the same 'we can always make more' justification and calculation to the replacement of human beings wiped out through war or genocide.

¹⁰⁶ This (in my view) sours Bentham's much-quoted declaration, '[T]he question is not, Can they reason? Nor Can they *talk*? But Can they *suffer*?'. Jeremy Bentham, *An Introduction To The Principles Of Morals And Legislation* (Oxford: Clarendon Press, 2007), p.311.

¹⁰⁷ Goodwin, 'Utility And The Good', in *A Companion To Ethics*, ed. by Singer, p.245.

¹⁰⁸ DeGrazia, *Taking Animals Seriously*, pp.237-39.

¹⁰⁹ See Korsgaard, *Fellow Creatures*, pp.69-73.

¹¹⁰ Similarly, as Tooley argues, there is no difference between killing a person and 'de-braining' them: either action takes away their capacity as a functioning being. Either one is a *prima facie* wrong. See Michael Tooley, 'Are Nonhuman Animals Persons?', in *The Oxford Handbook of Animal Ethics*, ed. by Beauchamp and Frey, pp.334-35. Likewise, congenital anencephalic beings would never be conscious, so they could not suffer, have interests, nor experience death as a loss. Notably, Peter Carruthers considers that anencephalic human infants would be excluded from moral standing on a contractualist account. Peter Carruthers, 'Animal Mentality: Its Character, Extent, And Moral Significance', in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.390.

¹¹¹ Pluhar, *Beyond Prejudice*, pp.210-11. See also Sapontzis, *Morals, Reason, And Animals*, p.178.

Moral dynamics and ‘synthetic ethics’: contrivance, regulation and compensation

If the general principles underlying our best-designed moral systems - broadly indicated above - really are what we commonly mean by human morality, then it is hard to see how they differ from, say, the way that we manage the economy, regulate traffic, or prosecute a war. On this basis, neither perspective seems consonant with the instinctual, self-forgetful and primal moral motivation which I outlined earlier. Schopenhauer regards all moral systems as artificial products designed to keep the wicked in line, which ‘can at best promote justice – but not beneficence’. He is also sceptical about the role of conscience but does at least think that ‘true morality’ may exist.¹¹² But if this is right, where is this morality? *What* is it, really?

Empirical studies cited previously suggest that morality has an evolutionary biological dimension, i.e., that it came about progressively as species became more complex. However, it seems that, unlike innate proto-moral behaviour in nonhuman species, which appears to remain stable over time, human moral systems appear gradually to adapt to a constantly changing background of socio-cultural, psychological and inter-group dynamics – hence the root word, ‘*morés*’ - arising from collective human activity. Notably, Salt sees humanity as ‘progressive’ – it is on a path of moral maturation¹¹³ - a view similar in some respects to one expressed by Carl Safina.¹¹⁴

What this also suggests is that our moral norms are continuing to evolve. If they did not, they would eventually be at variance with how we really live our lives; how we really *are* at this or that time. In this sense, our moral systems – as forms of discourse - could also be compared to the ways in which human language continually changes and evolves through human interaction and does not arrive at a finished and definitive version, except in the case of so-called dead languages. At the same time, this then makes it difficult to identify an elementary moral ‘core’ that remains even when systems change and evolve. Ultimately, human moral constructs and discourse (and systems based on them) are predicated on an idea of *right* – which may not necessarily coincide with moral sensibilities

¹¹² Schopenhauer, *The Basis Of Morality*, Part III, Chapter II, para. 6. Schopenhauer here repeats his claim that morality itself rests on religion. He also distinguishes between ‘true and false conscience’: the difference between true morality and ‘silly rules and customs’.

¹¹³ Henry S. Salt, *Animals’ Rights Considered In Relation To Social Progress* (New York: Macmillan & Co, 1895) p.89. *Internet Archive* ebook
<<https://archive.org/details/animalsrightsc00salt/page/n7/mode/2up>> [Accessed 23 May 2022].

¹¹⁴ Carl Safina considers that humanity first had to ‘self-domesticate’ (essentially opposing and ‘breeding out’ most of its violent and aggressive members) to get to the current stage of development. Carl Safina, *Beyond Words: What Animals Think And Feel* (London and New York: Souvenir Press, 2015), pp.232-33.

associated with the evolutionary and sociobiological aspects of proto-morality and indeed innate feeling-perceptions of right (as indicated earlier). Thus, in one sense it is possible to talk about a universalizable and coherent basis for ethics (for instance in relation to the maltreatment of animals), regardless of time, location or culture, even though it may not be possible to provide a universal, absolute, once-and-for-all *definition* of right.

Here, it is apparent that deontological systems become problematic and tend to break down. Thus, for instance, even revered moral codes such as the Ten Commandments may become anachronistic and out-of-step with wider socio-cultural conditions and *morés*'. For one generation or culture, it is immoral to refuse to fight in a war and right to execute people for cowardice; for another, war itself is immoral; for one generation or culture, prostitution is an immoral occupation; for another, sex workers have legal rights and protections. Likewise, collective attitudes to (and laws concerning) social justice issues such as misogyny, racism and homophobia have (in modern liberal democracies at least) undergone complete reversals within a generation.

Such advances seem to exemplify our underlying capacity for good; but by the same token, such moral malleability can work in the opposite way: as conformists (going back to the famous Milgram experiments, for instance) we can easily be induced or indeed be made *willing* – to harm others in the pursuit of a perceived or imputed good. We cannot safely say, 'never again': even the most ardently supported moral principles can be thrown into reverse and previously defeated manifest evils can enjoy a resurgence and regain popular support in later times.

In this way, morality (or a certain sense of it) behaves somewhat like the dynamics of stock markets or weather systems ('the moral climate'). Despite our own input (or influence at least in the latter case) such systems seem to go on around us of their own accord: one can passively observe and analyse new trends, repeated patterns, relatively stable elements, as well as catastrophic changes and events that may threaten even our very existence. By comparison, our conscientious individual contributions and gestures (in relation to the analogy above as much as to morality itself) may seem negligible. We may say (and believe) that it makes no difference whatsoever if I make fewer car journeys, fiddle my tax returns or – as a case in point – give up eating meat or using animal products. We struggle realistically to connect with the enormity of the dynamic systems that surround and involve us, let alone to rely on them as coherent indicators of the good.

This, in short, is to describe an apparent state of moral alienation: the essential disjunct between individual and system. (This will be discussed further in the next chapter.) But if this really is the situation, how did it arise? How is it maintained? Why can we not simply decide for ourselves what the 'moral climate' should be?

‘Managing maladaptation’

My own responses to the questions above are inevitably speculative. However, my contention is that, collectively, humans have (for reasons which I will explore in later chapters), over time, become estranged from, and antagonistic to, nature itself. By default, we treat it as something beneath us, to be tamed, conquered, exploited. Thus, while nature directly provides all the necessities of life (basic goods in natural law theory) to all other beings, humans alone have gradually become disengaged from nature to the degree that – most markedly in developed societies - we now inhabit a kind of synthetic and evolving physical counter-environment. And this manifests as cumulative, techno-cultural ‘layers’ between our naked or primal being and the outer world: a kind of semi-permeable shell through which our collective human experience is mediated, and from which we can no longer extricate ourselves.

Certainly, other intelligent species modify their environments to a degree,¹¹⁵ but I am suggesting that our modifications now *are* our environment. We have shifted, gradually, from tool-use (see Chapter 3) - including all forms of artifice and technology - to tool-dependency. Our tools and accoutrements have become who we are. We do not just wear clothes but are the clothes-wearing animal.¹¹⁶ Through a similar process, we have become progressively language and concept-dependent. We see and experience the world largely *through* our representation of it. And by the same token, humans’ rationalistic conception of morality could be regarded as a similarly constructed synthetic environment, but of systemic moral ideas rather than structures and goods.¹¹⁷ It resolves into a kind of atmosphere of ideation, which corresponds in many ways to the notion of the Noosphere (‘mind sphere’) associated with Chardin¹¹⁸ and certain theories of

¹¹⁵ Sapontzis makes the point that they do not try to control or reconstruct their environment. See Sapontzis, *Morals, Reason, And Animals*, p.43.

¹¹⁶ An allusion to Thomas Carlyle, *Sartor Resartus*. Carlyle coined the phrase ‘a clothes-wearing man’ in relation to 19th century dandyism and the idea of clothes going beyond mere functionality to a person’s essence. For an extract, see *Bartleby*: Thomas Carlyle (1795–1881) ‘The Dandy’ From “Sartor Resartus” (*The World’s Wit And Humor: An Encyclopedia In 15 Volumes*, 1906) <<https://www.bartleby.com/380/prose/542.html>> [Accessed, 25 June 2022].

¹¹⁷ This is to suggest that we could approach ‘structural morality’ in the same way that we approach structural linguistics and sociolinguistics.

¹¹⁸ See Pierre Teilhard de Chardin, *Man’s Place In Nature: The Human Zoological Group*, tr. by Rene Hague (London and New York: Collins, 1966), Chapters VI and V. The word/concept was jointly coined by Chardin, Édouard Le Roy, French philosopher and student of Henri Bergson, and Russian geochemist, Vladimir Vernadsky, in Paris, 1926. See, ‘Theory And History Of The Noosphere’, *Foundation For The Law Of Time* <<https://www.lawoftime.org/noosphere/theoryandhistory.html>> [Accessed 25 June 2022].

This major concept relates back to complexity-consciousness (see Chapter 3), although it is difficult to determine to what degree the idea of the Noosphere relates specifically to moral ideas.

ideology which would characterise it as an inevitable component of all societies (which will be discussed more fully in Chapter 7).

Thus, just as we become increasingly insulated and effectively alienated from nature – through technology, social systems and language – we also become increasingly alienated from the evolutionary roots of primal proto-morality that we apparently share with other sentient beings. In a sense we are no longer ‘morally naked’ beings who interact nakedly and naively with other beings, but rather clothed and cloaked beings who engage or ‘interface’ transactionally with one another: cumulative layers of discourse and representation accumulate between us and the ability to ‘tune in’ to the kind of proto-moral instincts apparently provided through evolution. Our default morality is necessarily second-hand, received, synthesised and maintained at a collective societal level through economic ideals.

Certainly, this allows us to talk about morality, invent moral systems, even behave morally, but not necessarily to maintain an authentic, independent and sound moral sensibility of our own. In modern, developed societies all of this is mediated via artificially created rules, laws, norms and values which are peculiar to human activity within the world, for only humans have need of them. However, while such principles enable us, to an extent, to gear social systems towards the benefit of human beings collectively, even those principles themselves also become absorbed into those systems and become ideologically charged: they become part of that which we need to manage.

Thus, we have inherited a system of ideas assembled to enable us to manage our maladaptation to the world; but whatever our ideals may be, we also remain constrained by that maladaptation. We may outwardly observe certain received rules and standards, but in a way that is detached from a functioning, subjective *sense* of moral ‘respectivity’ that apparently obtains among natural beings, human and nonhuman. In that respect, however nominally moral we may be, our notions of morality are derived from systems of beliefs which are ultimately a form of continuous adjustment to the vagaries of our self-made reality, a continuous battle with the manifest and dominant characteristics of human behaviour. And in practice, it merely ameliorates (to a degree) but does not resolve the problematic situation outlined above.

It may be that human morality can only facilitate approximation to the good in the way that we can speak of approximation to the mean. Morality in some sense is not a target to be hit or missed but is more like a set of provisional guidelines as to what people in general should do, but from which deviations are almost inevitable in practice. It might be compared, reductively, to a devised system such as the Highway Code, which enables us all to travel around without continual collisions

with others. It is a form of acquired self-control which is collectively conceived and ratified for a particular historical moment. It makes no difference to us whether we drive on the left or the right as long as we all understand and follow the same rules. But most of us follow the Highway Code primarily to stay safe ourselves, not necessarily because we actually care about the rules in themselves or about others on the road, who may suddenly become our adversaries if they break the rules or offend us in some way.

This is not to suggest that *homo sapiens* is inherently amoral; if we were, we would lack the capacity or the will to devise and try to honour moral systems in the first place. (Although it is also arguable that if we were truly moral beings, we would not need them.) However, it might be more accurate to say that we are latently moral beings who *have* moral practices.¹¹⁹ In this respect, our acquired, systematised morality may provide provisional guidance and social stability, not a genuine, inner apprehension of what is good in itself; no real sense of what it really means to *be* moral, rather than merely to *act* morally. Nor does it help to make sense of moral feelings that we may have, not least when they bring us into conflict with accepted cultural norms.

This may lead to moral conflicts, rationalisation and denial, even at the times when we may be closest to knowing the good for ourselves – for instance (as a case in point) when we experience spontaneous emotional reactions to cruelty, including cruelty to animals. Most people claim to abhor animal cruelty¹²⁰ and indeed may burst into tears in response to films or photographs of animals being brutalised and slaughtered. Clearly, their sense of *felt* morality is engaged and functional at some deep level; and this, I think, parallels the intuitive reactivity that galvanises many people into selfless acts of altruism, as described earlier. This, I think, *is* the true root of morality. At some deep level we know – or *feel* - that it is bad or wrong, but our overarching moral norms are variance with our deeper instincts (for relatively few people act upon them), and it is our instincts that are repressed. We may even feel ashamed for feeling pity or compassion towards animals - emotions which are too often dismissed as childish sentimentality.

However, rather than actively taking steps to avoid contributing to such harms themselves at source, for instance through our choices as consumers (see Chapter 1), a common response is to avoid, ignore or deny the evidence that these things

¹¹⁹ The science writer, Robert Wright, in *The Moral Animal: The New Science Of Evolutionary Psychology* (New York: Pantheon, 1994), argued that humans are potentially but not naturally moral. Referenced in DeWaal, *Good Natured*, p.117.

¹²⁰ According to a recent (2022) survey by the animal protection charity, *Animal Aid*, more than 70 per cent of people think that it is never acceptable to cause pain or suffering to an animal. See *Animal Aid*, 'Animal Aid Asks Public: "Are you one of the 71%?"' (14 April 2022) <<https://www.animalaid.org.uk/animal-aid-asks-public-are-you-one-of-the-71/>> [Accessed 20 June 2022].

are going on. The reasons for this are complex but are related to economic interests. Our society colludes obligingly with these interests, so that, for example, we are actively shielded from seeing or knowing what actually happens inside factory farms or slaughterhouses and are upset or offended if we do.¹²¹

Speaking more generally, this seems to indicate a kind of dissonance between percept and concept which makes it increasingly difficult for humans to apprehend the world clearly – to get it morally into focus, so to speak. The very thing we are ‘looking through’ blurs our moral vision. And here the situation could be likened to the problem presented by the minute flaw discovered in the main mirror of the Hubble space telescope, which had occurred during manufacture. This was eventually corrected by a kind of ingenious optical reversal of the fault, which effectively zeroed out the discrepancy.¹²²

Implicit in this analogy is the idea that, to regain our functionality, our moral discourse needs not only to contain the problem but to solve it, on the basis that what we commonly see around us is a distorted reflection of the world. Thus, what James Rachels calls ‘Sermon on the Mount altruism’¹²³ offers a kind of extreme corrective lens, which to normal eyes seems actually to *distort* reality. In particular, the counterintuitive requirement to make oneself ‘the last and least’ calls for unilateral (and unrewarded) virtue – the opposite of the mutuality within traditional Aristotelian virtue ethics.¹²⁴ And, if Sermon on the Mount morality is closer to true morality, by comparison, even the normative and prudential morality we embrace through reason is itself also part of the distortion which requires correction.

However, despite the possibility of such a radical fix for our moral optics, so to speak, it is not apparent that there is any enthusiasm for it among humans at large. It is not usual for people to exceed the commonly accepted moral standards characteristic of their social group. Collectively we do not seek to realise some ultimate good in ourselves but rather to protect our own interests and the collective itself by all means necessary; indeed, one can see how planned, radical changes or moral revolutions may be construed as threats to the dominant interests of that collective, however flawed its value system may be. It seems that we cannot easily correct our own vision, nor force our own growth, nor that of others; the time must be ripe and the collective must be ready for true revolutions to occur.

¹²¹ See Gruen, ‘Animals’, in *A Companion To Ethics*, ed. by Singer, p.351.

¹²² See ‘Hubble’s Mirror Problem’ (‘History: The Spherical Aberration Problem’), *esa/hubble* <https://esahubble.org/about/history/aberration_problem/> [Accessed 22 August 2024].

¹²³ James Rachels, ‘How Different Are Humans From Other Animals?’, in James Rachels, *Created From Animals: The Moral Implications Of Darwinism* (Oxford University Press, 1990), p.157. Online ebook <<http://www.jamesrachels.org/>> [Accessed 19 June 2022].

¹²⁴ See Aristotle, *The Nicomachean Ethics*.

Nevertheless, one must ask why the time is not *now*. Such generalities as I have offered above still do not really get to what it is that prevents *homo sapiens* in general from observing the simple, undemanding principle of unilateral non-harm by default, particularly in relation to nonhumans. Somehow, the presumption in favour of harming and killing nonhumans as we see fit – and the attendant propensity to embrace patent falsehoods in order to continue doing so – stubbornly and unaccountably persists as an aberrant norm (the oxymoron is deliberate) in our ‘moral weather system’, somewhat like the great red spot persists in and dominates Jupiter’s otherwise turbulent atmosphere. And it is this question – the phenomenon of ideological thought in relation to animal ethics – that will form the theme of the next chapter.

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Chapter 7

Ideological distortions and denial: speciesism, ‘functional untruths’ and ‘the reactionary paradigm’

Much of the discussion so far has focused on various kinds of empirical errors, argumentational fallacies and false justifications for our exploitation and abuse of nonhuman animals, and for their exclusion from moral considerability by many philosophers. However, as such errors and fallacies have been repeatedly exposed by many other commentators, but with limited substantive effect on most people’s attitudes and actions concerning nonhumans, there seems to be far more to this issue than merely correcting honest mistakes in our native understanding the world. The contrary explanations are largely greeted with indifference, cynicism or hostility: most people, it seems, do not want to know the truth, and still less to act upon it.

Even the common unwillingness to be exposed to what really happens in factory farms and slaughterhouses suggests that most people, at some level, already know what it is that they seek to avoid. While they may be oblivious of the specific philosophical arguments explored in this dissertation, they have enough awareness of the issues involved to seek ways to oppose or rationalise them – which amounts to a form of wilful denial of both evidence and logic.

This phenomenon, with its far-reaching ramifications for nonhumans, requires explanation. How do even the most obvious falsehoods associated with animal exploitation persist in society long after they have been discredited? While I have previously speculated that there is a supra-personal, climate-like dynamic governing the moral norms that prevail in society, the true situation seems more complex than this notion suggests. At some level, I contend, in relation to nonhumans, we are not innocent dupes of exploitative ideology but rather culpable stakeholders in it.

At the outset of this work, I argued that our exploitative and instrumental use of nonhuman beings is underpinned by our habitual misapprehension of our arbitrary desires as consumers as essential needs which we are entitled to fulfil. Thus, the moral questions involved tend to be rewrought into a question of individual rights to make free choices as consumers. The moral dimension is seen as something imposed and artificial which unduly curtails what most regard as their legitimate freedoms.

While I maintain that the commodification and exploitation of nonhumans is an intrinsically moral issue, it can also be seen as a component in a whole psycho-

social system driven by distorted perceptions, ideas and representations. And this involves, I argue, a kind of self-deception and other-deception strategy that straddles both conscious and unconscious levels of being, and both the personal and political dimensions. In short, the phenomenon is a manifestation of ideology – that is to say, the ideas and constructs which underlie social norms and practices and which contribute to a skewed or ‘loaded’ picture of certain aspects of the phenomenal world.

Ideology and animal ethics

For the purposes of this chapter I am envisaging ideology – notions of which can be seen in embryonic form in pre- and early Enlightenment philosophers such as Bacon and Hobbes¹ – in a general sense as a kind of distortion of our perception arising from the medium through which that perception is conveyed. However, it must be admitted here that any discussion of ideology in a modern context owes a debt to Marx and his followers, and it will be apparent that many of the skeins of thought represented in this chapter can, indirectly but ultimately, be traced back to Marx.

We have previously considered the way in which nonhumans are commonly treated as property, as commodities to buy, sell and use as we see fit: in effect, as mere objects. And in Marx’s account a commodity is ‘fetishised’ when it is seen as a separate thing which is disconnected from its source in exploitative relations between capital and labour.² Thus, for John Sanbonmatsu, ‘Marx’s [...] phenomenology of alienation under capitalism applies as readily to exploited animals as to factory workers’: speciesism is intrinsically and materially bound up with capitalism.³ And in the light of this, as Renzo Llorente notes, similar mechanisms exist to conceal the oppression involved in each case: ‘The institutional forms and the marketing images of the meat industry conspire to ensure that the “process disappears into the product”’.⁴

However, Marx’s view of nature is avowedly anthropocentric (I will be picking up this issue towards the end of the chapter) and a strictly Marxist model of ideology concerns only those distortions that mask and perpetuate the true nature of the

¹ Jorge Larraín, *The Concept Of Ideology* (London; Victoria NSW; Auckland NZ; Bergville SA: Hutchinson Group, 1979), pp.17-28.

² John Sanbonmatsu, Introduction, *Critical Theory And Animal Liberation*, ed. by John Sanbonmatsu (Lanham; Boulder; New York; Toronto; Plymouth, UK: Rowman & Littlefield Publishers, Inc, 2011), p.20. See also Larraín, *The Concept Of Ideology*, p.60.

³ Sanbonmatsu, Introduction, *Critical Theory*, pp.20-21.

⁴ (Citing Benton and Redfearn, ‘The Politics Of Animal Rights’.) Renzo Llorente, ‘Reflections On The Prospects Of A Non-Speciesist Marxism’ in *Critical Theory*, ed. by Sanbonmatsu, p.128. See also Sanbonmatsu, Introduction, *Critical Theory*, pp.20-21.

social relations of domination and subordination underlying the exploitation of human labour by the ruling class.⁵ While nonhumans, too, are systematically exploited by materially empowered human beings, they differ from the Marxian proletariat (in my interpretation) in that they can neither recognise nor overcome the ideological distortions which misrepresent and maintain their alienated conditions of servitude to ruling elites. In essence, therefore, ideology in relation to nonhumans is unilateral and 'top-down'; while humans are themselves enshrouded in ideological perceptions of nonhumans, they dominate and exploit nonhumans through the simple application of direct coercion and force.

In view of this, while I am not conforming to, nor purporting to represent, a formal, Marxist (or any other) account of ideology, the position I am adopting here shares (broadly speaking) some elements of Freudian theory, particularly the concept of cognitive dissonance,⁶ and some elements of the theories of Louis Althusser, who posited a general structuralist theory of ideology as an inevitable component or 'atmosphere' of any form of human society, even – controversially – a communist society.⁷

While ideology is sometimes described as 'false consciousness', it is better characterised as a distortion of perception. A useful analogy with my interpretation here would be with the refraction of light through water to give the illusion that, say, a stick is bent when part of it is under the surface – an illusion which disappears if both observer and stick are completely submerged under the water.⁸ Another analogy would be the lateral inversion of a mirror image (where my right and my left appear to swap places), or the inversion of the image in a telescope or *camera obscura*.⁹ This is not to say, necessarily that we can have a completely unmediated apprehension of the world (which leads into a much larger and more complex range of issues than I can realistically pursue here)¹⁰ but simply to make the point that our perception of an object is refracted (conditioned) by the medium through which it is seen. Even the human eye inverts the image conveyed to it, which is then 'corrected' by the brain.¹¹

Importantly, such ordinary and predictable physical effects do not prevent our recognising what is there (an apparently upside-down moon is still recognisably

⁵ See Larrain, *The Concept Of Ideology*, p.48 and p.64.

⁶ Ibid., p.84.

⁷ Ibid., pp.156-59.

⁸ A similar analogy with the bending of light waves was posited by Francis Bacon in *Novum Organon* (1620), referenced in Larrain, *The Concept Of Ideology*, p.20.

⁹ Ibid., p.38.

¹⁰ Larrain, for instance, discusses the issue of the relationship between ideology and science at length, and tackles the related and controversial idea of science *as* ideology. Larrain, Ibid., pp.176-210.

¹¹ For a useful summary (also referring to early experiments with 'inversion goggles') see 'How Our Eyes See Everything Upside Down', *Mental Floss UK* <<https://www.mentalfloss.com/article/91177/how-our-eyes-see-everything-upside-down>> [Accessed 20 November 2022].

the moon): we register the illusion but know that the object has not really changed in itself, but its relationship to us as observers has changed. However, even such optical illusions may be compounded if, for instance, another person or group maintains that the distorted image is the real one: then, we may believe them rather than our own perceptual input, as various social psychological group experiments have demonstrated; we can be persuaded to see, literally, as the group sees.¹²

From the latter point one can see how ideological distortions could occur in a similar way. As we adapt to changing socio-cultural developments (the 'medium' in which we exist) we also absorb dominant representations of phenomena, which condition or determine how we perceive and experience the world around us, and even our own inner states. This leads to the difference between 'what is visible and what is seeable' in daily life.¹³ The objects that we would see are in evidence; but we default to the appearance arising from the form of representation that we have acquired or learned.

However, unlike the 'bent stick' analogy, we are not passive observers of the medium which distorts things but rather active co-creators of it – participants in the manufacture of ideological constructs - even if we may be unaware of this fact. Our medium is made of collective mental formations ('mind-stuff') and flows from within us, collectively, as well as acting upon us externally; we create it and then forget that we have done so, for what we create gives the appearance of a natural substance.

This naturalisation also includes the various distortions which our medium imposes on our perceptions; the medium that distorts our perception of things is the same medium through which we then try to recognise and correct the distortions themselves. This might on first view seem to present an impossible contradiction, but it cannot be impossible in reality or we would have no idea that images we have of certain aspects of the world are distorted. If we were entirely submerged in ideological thought, we could not perceive or infer its existence nor see past our self-created constructs at all. How, then, do we account for this seeming paradox?

The 'open prison' of language

In Chapter 6, I referred to the way in which language evolves to accommodate and reflect changing social morés and norms, which makes it integral to any discussion

¹² Known as the Asch Paradigm, after group conformity experiments conducted by the psychologist, Solomon Asch. Referenced in *The Psychology Book* (London; New York; Melbourne; Munich and Delhi: Dorling Kindersley Limited, 2012), p.224.

¹³ Rosemary Hennessey, *Profit And Pleasure: Sexual Identities In Late Capitalism* (New York: Routledge, 2000), referenced by Dennis Soron, 'Road Kill: Commodity Fetishism And Structural Violence' in *Critical Theory*, ed. by Sanbonmatsu, p.57.

of ideology. Language both represents our perceptions of the world and modifies or refracts those perceptions (through concepts, images, and words). The objects of our experience rendered through this ‘carrying medium’ appear to us as true representations of the world; and over time, discourse appears to take on a life of its own as something natural rather than a construct.

However, while we may be passive to a degree in this process, I do not think that we are entirely unconscious of it. Referring to the Buddhist analogy of ‘the finger pointing at the moon’,¹⁴ the signifiers we use are not the signified – the thing in itself; and we are capable of knowing this by virtue of our capacity for self-reflexivity (see Chapter 3). We do not just have words for objects and ideas but words for other words. We can, if we choose, both see and see through ideology as we can see and see through a sheet of glass. The problem (particularly in relation to our common perception of nonhuman animals) is that we are capable of seeing it, but we apparently choose *not* to see through it. When it suits us, we are sometimes complicit in the manufacture or maintenance of patent ideological distortions that shield us from facts about the world that we do not wish to see.

We can, then, to a significant degree, take responsibility for what we think. This provides us with considerable latitude in how we interpret our perceptions and enables us to accommodate even contrary opposites. For instance, Gary Francione talks of ‘moral schizophrenia’ in which we claim to love animals but continue to eat them, selectively.¹⁵ In ordinary terms, this is a form of hypocrisy, but it may also stem from the way that we process information. Consider, for instance, the familiar ‘duck-rabbit’ illusion, where an ambiguous drawing reveals two entirely different images:¹⁶ we can see only one image at a time, but once we have learned to see both images, we can switch between them, and also know that we have made that choice; one may be dominant, but neither one is the ‘real’ image.

Similarly, we can accommodate opposing perceptions and ideas – even contradictory moral positions - without necessarily experiencing any conflict between them. Thus, for instance, we can say, ‘I love animals’ and, ‘I love eating animals’, and mean both statements; indeed, most of those who care for animals

¹⁴ While this is often attributed to the Buddha himself, some dispute this. For an interesting and relevant discussion, see ‘I Am A Finger Pointing To The Moon. Don’t Look At Me; Look At the Moon’, *Fake Buddha Quotes* <<https://fakebuddhaquotes.com/i-am-a-finger-pointing-to-the-moon-dont-look-at-me-look-at-the-moon/>> [Accessed 21 November 2022].

¹⁵ Gary Francione, *Introduction To Animal Rights: Your Child Or The Dog* (Philadelphia, PA: Temple University Press, 2000), referenced by Dennis Soron, ‘Road Kill: Commodity Fetishism And Structural Violence’, in *Critical Theory*, ed. by Sanbonmatsu, p.61. See also footnote 101.

¹⁶ Notably described by the art historian, E. H. Gombrich in *The Story Of Art* (Phaidon, 1951). For a brief, illustrated overview, see Chloe Farand, ‘Duck Or rabbit? The 100-Year-Old Optical Illusion That Could Tell You How Creative You Are’, *The Independent* (24 March 2021) <<https://www.independent.co.uk/news/science/duck-and-rabbit-illusion-b1821663.html>> [Accessed 17 November 2022].

professionally are not vegetarians.¹⁷ The question that arises here, however, is on what bases we adopt this or that alternative perception as the 'true' one at this current moment. How do we explain to ourselves why we made that particular choice?

Myth-making and 'functional untruths'

Here it is useful to consider the potent mythopoeic dimension of humans' collective apprehension of the world: we do not always frame our perceptions and experiences according to consistent, rational principles; reason operates alongside various narratives (myths) about our own qualities, capacities and values, which may not necessarily reflect reality. Indeed, Marcuse refers to 'human society whose rationality is still the irrational'.¹⁸ Thus, we may interpret – and interact with – the phenomenal world through favoured beliefs – ingrained as 'habits of thought' – rather than logical deduction and experience, which lend themselves to arbitrariness in our collective actions.

Few of us challenge our own errors of perception, and we tend to resent having them pointed out to us, even when those errors may have negative ramifications. And in this situation any counter-representation of actuality may be perceived not merely as a psychological challenge but as a real threat to our interests. Hence, when endorsed by the collective, received ideas present themselves as normal and normative and are often fiercely protected and stubbornly resistant to reason.

I refer to such self-perpetuating myths as 'functional untruths' for they play a part in our collective survival, in the sense that we must settle upon a shared perception of the world in order to understand one another, co-operate and form stable social groups. In the process, however, the adequacy to the real of this perception is compromised by its role in maintaining social integrity. And this may engender disjuncts and contradictions in our apprehension of the world, leading to a kind of collective cognitive dissonance, which is in turn reflected in a kind of discursal neurosis.¹⁹ As Sanbonmatsu says:

¹⁷ However, the proportion of vegetarians/vegans is higher than that of the general population, according to a Swedish study. See J. Hagelin and Jann Hau, 'Attitude Of Swedish Veterinary And Medical Students To Animal Experimentation', *The Veterinary Record*, 146:26 (2000), 757-60. *ResearchGate*

<https://www.researchgate.net/publication/12409372_Attitude_of_Swedish_veterinary_and_medical_students_to_animal_experimentation> [Accessed 18 November 2022].

¹⁸ Herbert Marcuse, *One Dimensional Man* (Boston: Beacon Press, 1964), referenced by Carl Boggs, 'Corporate Power, Ecological Crisis And Animal Rights', in *Critical Theory*, ed. by Sanbonmatsu, p.95.

¹⁹ In the sense of unconscious defence mechanisms which repress unacceptable or contradictory feelings or ideas, as described in Freudian theory. See 'Neurosis' in *Encyclopædia Britannica Ultimate Reference Suite* (*Encyclopædia Britannica*, DVD, 2015). [Accessed 15 November 2022].

Critical theory [...] sets out from a single intuition about the world – that the predominant values, institutions, representational schemata, and so forth of the prevailing social order are a distortion of the real, unjustly constituted in such a way as to prevent the world from becoming something other than it ‘is’; that is, from becoming what it *ought to be*.²⁰

On this basis, some commentators such as Joan Dunayer have homed in on language (representation) itself and argued that having control over discourse is to have the power to attach particular definitions to things, and even to define reality itself.²¹ In this regard, we engage in a form of ‘verbal vivisection’, when, for instance, we describe animal body parts as ‘cuts’ of meat.²² Meat producers also use nonsensical marketing constructions such as ‘grass-fed beef’ or ‘free-range chicken breasts’ – effectively eliding the reality of the creature’s prior existence as a living being. In effect, marketing euphemisms make the link between animals and meat disappear²³ – what Dunayer describes as the ‘erasure’ of animals and their suffering.²⁴

In other words, language instils in us the idea that using animals is normal, natural and acceptable. Indeed, for Derrida, the term *animal* itself (which he calls an ‘asinity’) ‘signifies one of the most egregiously reductionist concepts in the history of Western civilisation’. It is, he says, ‘not just a bad concept but an act of violence’.²⁵

However, it is doubtful that specific instances of euphemistic language can by themselves blind us to the violent reality of animal exploitation. Rather, I think, they act as an emollient that helps us passively to unsee or ignore that reality and operate in tandem with dominant narratives that underlie and help to maintain false perceptions of animal exploitation.

‘Fiction factories’, fetishisation and invisibility

As various commentators have pointed out, such strategies or narratives operate on a major scale, institutionally and nationally, to obscure the truth about the harms

²⁰ Sanbonmatsu, Introduction, *Critical Theory*, p.5.

²¹ Michael A. Fox, ‘The Case Against Animal Experimentation: Comments On Dunayer’s “In The Name Of Science”’, *Organization And Environment*, 13:4 (2000), 463-467 (p.463).

²² Fox, *ibid.*, p.463. Joan Dunayer discusses this issue at length in her book, *Animal Equality: Language And Liberation* (Derwood, Maryland: Ryce Publishing, 2001), which includes a non-speciesist thesaurus.

²³ Dennis Soron, ‘Road Kill: Commodity Fetishism And Structural Violence’, in *Critical Theory*, ed. by Sanbonmatsu, p.62.

²⁴ Fox, ‘The Case Against Animal Experimentation’, p.467.

²⁵ Jacques Derrida, *The Animal That Therefore I Am* (New York: Fordham University Press, 2008), referenced by Aaron Bell, ‘The Dialectic Of Anthropocentrism’, in *Critical Theory*, ed. by Sanbonmatsu, p.167.

and suffering caused to animals²⁶ - and indeed to shield consumers from that reality - by using 'fictional devices to shape [their] beliefs and perceptions about them'.²⁷ Essentially, this is propaganda at work; and, as Robert Grillo points out in his book, *Farm To Fable*, the meat industry's 'propaganda machine [is] powerful enough to brainwash 98 per cent of consumers, including those with higher education degrees who otherwise think critically on other important social issues'.²⁸

However, this could not happen without common consent. Consumers are 'active partners' in sustaining the illusion of animal welfare, and even show 'willed blindness' according to a Scandinavian study in 2015.²⁹ And, in addition, we absorb this fictional paradigm and recycle it through our own social contacts in a kind of 'feedback loop'.³⁰ Thus, we actively *reproduce* ideology, in a way that might be compared to the way that a virus inveigles its way into living cells and tricks them into making copies of it.

If all our perceptions of animal exploitation and suffering are filtered through industry propaganda, even if we then happen to see uncensored images of it which do not accord with that framework, we may automatically blot them out of our minds. However - like the blind-sight phenomenon discussed in Chapter 3 - we may still react to them unconsciously; they may still disturb or distress us. We register the sensory experience, but the way in which we encode that experience facilitates evasion or denial. If I have been assured that what I am seeing is legal, humane and natural, why would I feel upset at seeing it? If it upsets me, there must be something wrong with me, rather than what I am witnessing.

Such notions are facilitated in part by the way in which the marketing activities of the exploitation industries use images which foster the perception of animals not as individual subjects but as 'fictionalised and fetishized objects of consumption' which are designed to 'infect us with apathy for the victims'.³¹ And perhaps the most degrading form of the fictionalisation of objectified animals is the use of humour and cartoons, for instance in promotional materials and packaging, which turns the suffering of the animals into something trivial or even laughable:³² and in so doing, these visual fictions cloak the violence which is

²⁶ Brian Luke, 'Justice, Caring And Animal Liberation', *Between The Species*, 8:2 (1992), referenced by Josephine Donovan, 'Sympathy And Interspecies Care: Toward A Unified Theory Of Animal Liberation', in *Critical Theory*, ed. by Sanbonmatsu, p.290. See also Robert Grillo, *Farm To Fable: The Fictions Of Our Animal-Consuming Culture* (Danvers, MA: Vegan Publishers, 2016), p.154.

²⁷ Carol Adams (referencing Grillo), Foreword to Grillo, *Farm To Fable*, v.

²⁸ Grillo, *Farm To Fable*, p.7 and p.150.

²⁹ Ibid., p.79. Citing Sune Borkfelt, and others, 'Closer to Nature? A Critical Discussion Of The Marketing Of "Ethical" Animal Products', *Journal Of Agricultural And Environmental Ethics*, 8:3 (2015).

³⁰ Grillo, *Farm To Fable*, p.20 and p.152.

³¹ Ibid., p.28.

³² Victoria Johnson, 'Everyday Rituals Of The Master Race: Fascism, Stratification, And The Fluidity Of "Animal" Domination', in *Critical Theory*, ed. by Sanbonmatsu, p.207.

central to the industry.³³ 'Humour' (in its crudest form) also accompanies the wantonly brutal and sadistic maltreatment of already ill or injured animals in slaughterhouses,³⁴ where, according to Jacques Semelin, the perpetrators' 'situation of impunity' enables them to take pleasure in making others suffer and in having power over them.³⁵

It is a relatively small step from such trivialisation to invisibility, which plays an important part in maintaining carnist practices.³⁶ Carol Adams calls the invisibility of the animal victim 'the absent referent' and observes that, 'Behind every meal of meat is an absence: the death of the animal whose place the meat takes'.³⁷

This seems close to the illusory notion, identified by Derrida, that the animal does not really die³⁸ (which is also a convention of cartoon violence). While we cannot really avoid *knowing* that – and how – they die (as Derrida also says),³⁹ we rarely witness the event. In the UK alone, more than five billion animals are slaughtered every year,⁴⁰ yet the industrial scale of the killing prevents our discerning the victims as individuals who die *as* individuals. They are in effect screened off behind astronomical numbers that we can barely comprehend; the sheer enormity of what we do to them is literally too much for us to process.

Most of the billions of animals killed for food are chickens, roughly 2.8 million of which are slaughtered in the UK every day – or about 30 per second.

Coincidentally, this equates roughly to the normal Frames Per Second (FPS) rate of a movie or video. And, in a sense, the inhuman scale of this throughput suggests the film-loop illusion of the same stereotypical animal being 'processed'

A bizarre example of casual 'humorous' disrespect for animals' lives and dignity can be seen in the (discontinued) marketing of novelty sweets/pet toys in the shape of roadkill animals with their innards bursting out, cited by Dennis Soron. In his view, 'The very banality of this everyday violence reinforces the tendency [...] to regard animal bodies as things whose routine destruction inspires morbid curiosity but never empathy or concern'. Soron, 'Road Kill', in *Critical Theory*, ed. by Sanbonmatsu, p.56 and p.59. See also Sanbonmatsu, Introduction, *Critical Theory*, p.21.

³³ Grillo, *Farm To Fable*, p.57 and p.80.

³⁴ Here, Weisberg draws comparisons between the kind of cruel laughter that typically accompanies such abuse with the hateful laughter underlying the Nazis' ridicule of the Jews. She references Theodor Adorno's and Max Horkheimer's *Dialectic of Enlightenment: Philosophical Fragments*, ed. by Noerr and Jephcott (Stanford CA: Stanford University Press, 2002), in which this is characterised as 'diabolical' and 'sadistic' laughter: 'laughing where there is nothing to laugh about'. Weisberg, 'Animal Repression', p.187.

³⁵ Jacques Semelin, 'Purify And Destroy: The Political Uses Of Massacre And Genocide' (New York: Columbia University Press), referenced by Sanbonmatsu, Introduction, *Critical Theory*, p.4.

³⁶ Melanie Joy, *Why We Love Dogs, Eat Pigs And Wear Cows: An Introduction to Carnism* (YouTube video (29 Feb 2012) <<https://www.youtube.com>>) referenced by Grillo, *Farm To Fable*, p.78.

³⁷ Carol Adams, *The Sexual Politics Of Meat: The Book* (CarolAdams.com <caroljadams.com/spom-the-book/>) referenced by Grillo, *Farm To Fable*, p.78.

³⁸ Jacques Derrida, *The Animal That Therefore I Am*, ed. by Marie-Luise Mallet; tr. by David Wills (New York: Fordham University Press, 2008), p.110.

³⁹ Derrida, *The Animal That Therefore I Am*, pp.26-28.

⁴⁰ See the *Animal Kill Clock* [animated webpage] <<https://animalclock.org/uk/>> [Accessed 16 November 2022].

continually, going round and round in an apparently seamless cycle;⁴¹ being slaughtered inevitably, but not actually ceasing to exist.

This may seem fanciful, but it pertains to a fact of perception. Just as the illusion of movement on film depends on our inability to process a rapid series of individual images, so does the illusion of the ‘replaceability’ of animals depend on our inability to process a rapid series of individual extinguishments. We *know* that death is the end of a creature’s life, but (in the slaughter system) it appears to us not as an end, but as a brief interval in a uniformly predictable sequence of events.

This also helps to create the illusion of raising and killing animals as part of an apparently inevitable regenerative process, like planting and harvesting vegetables or cereals each year. (Factory farmed broiler chickens are sometimes referred to as ‘the current crop’). This is compounded by the radically abbreviated lifespans of farmed animals, most of whom are juveniles when they are slaughtered (about six weeks for broiler chickens, or about six months for pigs, for instance).⁴²

However, all of this normally happens out of sight, and the hidden process of the killing line engenders the perception that slaughter is automatic, like manufacture in reverse.⁴³ It is not only the animals who are invisible, but also those employed to end their lives and to render them into the end-products that we desire. Carol Adams avers that slaughter workers ‘must accept on a grand scale a double annihilation of self’ – i.e., their own bodies [in the sense of repressing their own instinctive humane feelings] as well as animal bodies.⁴⁴

While this process remains invisible, we can maintain the fiction that we play no part in it; indeed, it may appear as though no agency at all is involved. And this, I

⁴¹ This is also suggestive of the Victorian zoetrope toy, which displays cyclical images. See the animation in: Jonathan Jones, ‘Magic In Motion: The Victorian Toys Spinning Back To Life As GIFs’, *The Guardian* (4 November 2015)

<<https://www.theguardian.com/artanddesign/jonathanjonesblog/2015/nov/04/magic-in-motion-the-victorian-toys-spinning-back-to-life-as-gifs>> [Accessed 15 November 2022].

⁴² In addition to this, many animals are killed while still in the womb. According to various surveys from around the world between 1989 and 2019, in some slaughterhouses (including the UK), up to one in five cows were pregnant (many in the late stages) at the time of slaughter. See ‘How Many Pregnant Mothers Are Slaughtered For Meat And Dairy?’, *Kinder World* [warning: very graphic and upsetting images on page] <<https://www.kinderworld.org/blog/how-many-pregnant-mothers-are-slaughtered-for-meat-and-dairy/>> [Accessed 19 November 2022].

⁴³ Modern manufacturing methods, such as the car assembly line originally devised by Henry Ford, were based on the ‘disassembly’ process of the slaughter line in the Chicago stockyards. See Sanbonmatsu, Introduction, *Critical Theory*, p.22.

⁴⁴ Carol Adams, *The Sexual Politics Of Meat: A Feminist-Vegetarian Critical Theory* (New York: Continuum, 2006), referenced by Weisberg, ‘Animal Repression’, in *Critical Theory*, ed. by Sanbonmatsu, p.183. For a revealing and serious (despite the title), first-person insight into this role see, for instance, ‘Confessions Of A Slaughterhouse Worker’, as told to Ashitha Nagesh, *BBC News* (6 January 2020) <<https://www.bbc.co.uk/news/stories-50986683>> [Accessed 16 November 2022].

think, also supports the fictional portrayal of the animals as willing victims⁴⁵ who happily go along with whatever we do to them⁴⁶ – hence the popular images of ‘farm’ animals dressed as chefs and obligingly serving up their corresponding meat products on a platter.⁴⁷

Such notions of animals co-operating in their own exploitation are enshrined in traditional mythology, as Karen Davis notes, with fables of animals hurrying from the fields to be sacrificed in religious rituals, and thus fulfilling human notions of their higher purpose.⁴⁸ Allied to this is the idea that using animals is a way of honouring them, hence the traditional practice across many cultures of giving thanks to animals for ‘giving up their lives’.⁴⁹

This seems patently absurd; but given that farmed animals’ lives are so brief and seemingly inconsequential to us, we may freely imagine that their existence is equally meaningless to them; and as they are going to be replaced anyway, they do not lose anything by ‘sacrificing themselves’ for our consumption. Once they have reached their slaughter weight, they have fulfilled their *telos* as we define it: as Davis puts it, ‘Our use becomes their ontology’.⁵⁰ And the sub-text here is that they (supposedly) understand this fact of existence themselves: just as natural prey animals know that they are prey animals, farmed animals know that they are prey for human animals.

Thus, the domestication of animals, which Davis likens to the enforced ‘civilisation’ of peoples in the undeveloped world by European colonists, is portrayed as beneficial to them.⁵¹ Rather than being imprisoned and exploited, farmed animals are portrayed as complicit beneficiaries of the generosity of their superiors and guardian-protectors.⁵² And this underpins the welfarist standards (‘humane washing’) nominally adopted by modern animal agriculture,⁵³ such as the notional Five Freedoms scheme.⁵⁴ Here, Grillo flags up the paradox in which, ‘the way animals are treated during the short time they are allowed to stay alive matters, but their very lives are worth nothing’.⁵⁵

⁴⁵ Grillo, *Farm To Fable*, p.58.

⁴⁶ Ibid., p.24.

⁴⁷ The grotesque absurdity of this is particularly apparent from the front cover of the 2016 edition of *Farm To Fable*, which features a photo of a person who is dressed up as a pig who is dressed up as a chef.

⁴⁸ Karen Davis, ‘Procrustean Solutions To Animal Identity And Welfare Problems’, in *Critical Theory*, ed. by Sanbonmatsu, p.44 and p.46.

⁴⁹ Grillo, *Farm to Fable*, p.27.

⁵⁰ Davis, ‘Procrustean Solutions’, pp.44-45.

⁵¹ Ibid, p.40. See also Grillo, *Farm to Fable*, p.107.

⁵² Grillo, *Farm To Fable*, p.24.

⁵³ Ibid., p.112.

⁵⁴ That is, freedom from hunger and thirst; freedom from discomfort; freedom from pain and injury; freedom to express natural behaviours, and freedom from fear and distress. Grillo, *Farm To Fable*, p.56.

⁵⁵ Ibid., p.131.

As Grillo also notes, even ‘humane’ farming practices would be classed as torture if they involved companion animals.⁵⁶ And this is apparent in farmed animals’ natural reactions against the unnatural constraints of the farming system – behaviours which purport to show that they are inherently stupid creatures who deserve their fate,⁵⁷ or indeed cause their own problems, for instance by tail-biting, head-pecking, even cannibalism, which are also stress reactions to the unnatural conditions in which they exist.⁵⁸ Animals are even blamed for spreading diseases such as bird flu, disregarding the fact that humans create and force them to live in the very conditions in which such infections can thrive.⁵⁹

In response, they are dealt with severely, whether it is through abuses such as (without anaesthetics) tail-docking, tooth-clipping, castration, de-beaking, the farrowing crate, and other interventions ‘for their own good’.⁶⁰ In modern times, this includes experimental genetic engineering to make animals easier to manage in factory farming conditions – for instance, breeding bald chickens to save wastage (and to prevent their overheating) or the proposition of breeding blind chickens (to obviate the need for artificial lighting to control egg-laying). Davis likens this treatment to the Greek myth of Procrustes who cut or stretched his guests’ legs to fit his own bed.⁶¹

A particularly insidious category of welfarism is the glaring oxymoron of ‘humane slaughter’, which belies the degree of violence necessarily involved and forms part of ‘the self-deception upon which [consumers] base their food choices’.⁶² A related strategy is the promotion of notional ‘kind and caring’ and personalised slaughter practices such as those advertised as ‘slaughtered on the premises’ or mobile slaughter services, in which killing comes to appear as something benign, with little or no suffering caused the animal.⁶³ (An equally insidious side effect of this is to create the illusion that ‘normal’ slaughter exists in a category apart from, and less serious than, other forms of animal abuse and cruelty that accompany the exploitation of nonhumans.)

What is elided here is that, while the physical practices may be carried out more carefully, they are still essentially the same as those involved in industrial slaughter: the animal (which may or may not be stunned) will have its throat cut, and it will die by bleeding out. And while we are led to believe that this is humane, the fact that this is not the method of choice used by vets for euthanising companion animals surely exposes the contradiction involved. A simple moral

⁵⁶ Grillo, *Farm To Fable*, p.24 and p.67.

⁵⁷ Ibid., p.85.

⁵⁸ Ibid., p.84.

⁵⁹ Ibid., p.84.

⁶⁰ Ibid., p.112.

⁶¹ Davis, ‘Procrustean Solutions’, in *Critical Theory*, ed. by Sanbonmatsu, p.35; and Sanbonmatsu, Introduction, *Critical Theory*, p.8.

⁶² Grillo, *Farm To Fable*, pp.60-62.

⁶³ Ibid., p.100.

litmus test, then, is the question: 'Would I let that happen to my dog?'. And if I would allow it (or request it), what would that say about me?

Tellingly, and unaccountably, such anodyne notions persist even when it is now easy to obtain reliable information and supporting materials that give a very different perspective on what happens to animals who are processed through industrial farming and slaughter systems (including failed and improper stunning and various forms of wanton cruelty and abuse)⁶⁴ – culminating in deaths which have been likened, vividly, to 'the bloody reality of crucifixion'.⁶⁵

Numerous accounts have been published over the course of many decades, which include explicit details and factual data that build up a disturbing picture of what the animals are forced to endure at every stage of the processes involved in meat production and other forms of exploitation. Selection is somewhat arbitrary, as many other titles could be cited here, but good factual overviews and insights are offered, for instance, by Peter Singer in the 'Down On The Factory Farm' chapter of *Animal Liberation*; by Juliet Gellatley in *The Silent Ark*; by Charles Patterson in *Eternal Treblinka*; and by Gail Eisnitz, who (in the investigative tradition of Sinclair Lewis culminating in his 1905 novel, *The Jungle*) gives an inside view of the culture surrounding the industrialised killing of animals in *Slaughterhouse*.⁶⁶

Beyond this, however, it is inordinately difficult to convey the terrible actuality of the violence routinely and exceptionally used in the course of transforming sentient creatures into meat and other products. The most conscientious attempts to describe the extreme violence and cruelty involved (both incidental and deliberate) in a sense short-change the victims, for they cannot convey the subjective reality that it implies; indeed, it seems to be beyond the scope of language itself. One must *see* what happens in order to *know* what happens; one must have some kind of relatable experience associated with one's perception in order to realise (*real-ise*) it in one's mind. (I will be discussing this point in the next chapter.) In a sense, *witnessing* the horror involved *is* the argument (in the same way that 'witnessing' is central to religious conversion): one must be able to see for oneself without interference from the ideological prophylactic of industry propaganda.

⁶⁴ Grillo, *Farm To Fable*, p.79. Also, as Dennis Soron notes, the expansion of wildlife film and photography in the late 19th century, which made animals more visible, coincided with the rise of animal protection movements. Dennis Soron, 'Road Kill', in *Critical Theory*, ed. by Sanbonmatsu, p.62.

⁶⁵ Andrew Linzey discusses John Henry Newman's sermon which explicitly compares the suffering of slaughtered animals and Christ's death on the cross. See Andrew Linzey, 'Why Animal Suffering Matters Morally' (chapter) in Andrew Linzey, *Why Animal Suffering Matters: Philosophy, Theology And Practical Ethics* (Oxford and New York: Oxford University Press, 2009), pp.38-40. [Oxford Scholarship Online, 2014] <<https://doi.org/10.1093/acprof:oso/9780199351848.003.0002>>.

⁶⁶ Gail A. Eisnitz, *Slaughterhouse: The Shocking Story Of Greed, Neglect, And Inhumane Treatment In The US Meat Industry* (Amherst, NY: Prometheus Books, 1997).

To an extent, one can catch an indirect glimpse of that reality via any number of animal protection/rights publications and websites which relay investigation accounts and often horrific undercover video footage, highly edited versions of which occasionally make their way into the mainstream media, or feature length documentary films such as *Earthlings* (2005).⁶⁷ The evidence is available to anybody who really wants to review it. But it is precisely this vital act of ‘surrender’ to seeing which most people are denied from experiencing or deny to themselves.

A familiar response from the industry is to dismiss such information and images as unrepresentative aberrations; another is to try to use legal mechanisms to prevent them from getting into the public domain. The ‘Ag-gag’ laws in certain American states, for instance, make it illegal for activists to enter or make recordings on agricultural premises without authorisation, even if they are documenting or exposing practices which may be illegal or cruel.⁶⁸

Here again, however, a paradox become apparent. On one hand, the animal exploitation industries do not want consumers to see for themselves what happens inside factory farms and slaughterhouses. On the other hand, some sectors of the industry appear to be more candid about slaughter and even run schemes to encourage people to learn what is involved or see it for themselves. However, by making the process more visible, in a managed way, the industry seeks to desensitise consumers and get them used to the idea of slaughter as an ordinary and acceptable thing to do.⁶⁹

This would seem to undermine the claim that, ‘If slaughterhouses had glass walls, we’d all be vegetarians’.⁷⁰ However, rather than simply throwing open the slaughterhouse doors, this candour is mediated and contextualised for us so that we witness the process in controlled ideal-standard conditions. Thus, if we see an animal being ‘correctly’ stunned by an electric shock or a captive bolt before being shackled upside-down and having its throat cut, with little apparent resistance or movement, we are likely to perceive this as a perhaps rather callous but otherwise acceptable form of euthanasia rather than the extreme violence that it really is.

Humans, it seems, readily consent to being deceived in this way: we do not, as Malcolm Muggeridge observed, believe lies because we must but because we want to.⁷¹ And this concurs with Peter Singer’s claim that, ‘People want to believe

⁶⁷ For more information, see the *Earthlings* website <<https://www.nationearth.com/>> [Accessed 23 November 2022]. (Warning: upsetting material/images.)

⁶⁸ See Alicia Prygoski, ‘Brief Summary Of Ag-Gag Laws’, Michigan State University (2015) <<https://www.animallaw.info/intro/ag-gag-laws>> [Accessed 17 November 2022].

⁶⁹ Grillo, *Farm To Fable*, p.92 and pp.132-140. See also Soron, ‘Road Kill’, in *Critical Theory*, ed. by Sanbonmatsu, p.62.

⁷⁰ Commonly attributed to Sir Paul McCartney in various sources.

⁷¹ Quoted in various sources and contexts. See, for instance, ‘Malcolm Muggeridge’, *Goodreads* <https://www.goodreads.com/author/quotes/17437.Malcolm_Muggeridge> [Accessed 21 November 2022].

that the animal they are eating was treated humanely, but they don't really want to know about it'⁷² – a phenomenon which Jeffrey Masson also explores in the 'Denial' chapter in his book, *The Face On Your Plate*.⁷³ This is indeed a peculiarly human phenomenon: we know that certain other species use deceit as a survival tool – for example, hiding food from conspecifics – but it is difficult to make evolutionary sense of our apparent willingness to deceive ourselves or be deceived by others.

One possibility is that humans have a deeply-ingrained predisposition to defer to the dominant perceptions of our social group to help preserve the cohesion and integrity of the collective. This is not to suggest that this instinct cannot be bypassed in some situations. (Even seemingly hard-wired instincts such as self-preservation can be consciously 'switched off' if necessary – for instance, to save the life of another, or in the case of suicide.) However, in general, the impulse to obey social authority/norms (imposed by long-standing power elites) seems to hold greater sway over us than 'inconvenient' personal moral instincts that would challenge the status quo; anything that might undermine this cohesion must be discouraged or sacrificed.

It seems that humans in general conform not just to power itself (or apparent power), but to accept dominant ideological representations, narratives and values that represent the interests of power – a phenomenon which is encapsulated by Gramsci's concept of cultural hegemony.⁷⁴ In practice this need not necessarily entail any direct threat to oneself; one can be persuaded or seduced into conforming with the many, however capricious their whims – to the degree that ordinary people have voluntarily handed over innocent citizens to malevolent authorities such as the Inquisition and the Nazis.

'Fictions' versus physiology

This is not to say that some form of fear does not play a role in this process, but to suggest that there is also an element of consent along the lines of the end of Orwell's novel, *1984*, when Winston Smith realises that he has come to *love* Big Brother: for if the chastisement of the dissenter is ultimately designed to instil the conviction that the interests of power are all for one's own good, then when belief is secured, coercion is no longer necessary.

Similarly, it may be that our collective attitude to nonhuman animals involves consensual deferral to the powers that shelter us from the individual angst and

⁷² Peter Singer, *Animal Liberation*, p.150.

⁷³ Jeffrey Moussaieff Masson, *The Face On Your Plate: The Truth About Food* (New York; London: Norton, 2009).

⁷⁴ Grillo, *Farm To Fable*, p.8.

social unrest that may arise from divergent personal moral convictions. In the interests of social stability, it is better to live in a state of ‘managed maladaptation’ (see Chapter 6). On the basis of this, we come to perceive the normalisation of flesh eating not as a symptom of alienation from nature but, rather, as a badge of integration into normal society.

Nevertheless, this still begs the question of how particular sets of ideas and beliefs take root in society and *become* the ruling ideas. Why, as a case in point, did *de facto* carnivorism become the norm? And why is this self-determination so persistent and resistant to change? Many of the commentators cited so far in this work have tended to train their fire on the moral dimension of raising and killing animals for human use, rather than engaging with the underlying question of why humans continue to eat meat at all.

Here again, it is worth stressing that, based on our physiology, which is similar to that of the other Great Apes, humans are not natural carnivores; we do not need to consume flesh or other animal products, and court health disbenefits if we do (see Chapter 1). It is difficult to name another species which has deviated from its inherent biological make-up in this way. Certainly, nonhumans may sometimes be reduced to scavenging inappropriate or harmful foods if they are starving, but humans seem to be the only species that, for all of its much-vaunted reasoning powers, literally *does not know* what it is supposed to eat under normal and natural circumstances.

To exist in this state of profound self-ignorance indicates that the reinvention of our species as a *de facto* carnivore is an aberrant socio-cultural phenomenon, not a natural one: if we were true carnivores, we would have no need of livestock farms nor slaughterhouses for we could simply take our own prey at will as actual predators do (see Chapter 1). Yet we persist in the erroneous belief that we must continue to eat flesh and animal products to survive, even while other food sources are readily available. Indeed, we cling desperately to this belief that we *must* eat flesh because, ‘without necessity, our only valid reason for causing animals suffering vanishes’.⁷⁵ And thus this belief is crucial in justifying our culture’s domination and exploitation of nonhumans.⁷⁶

The accepted account is that, despite the predominance of a vegetarian diet among the Great Apes and plausibly (according to some sources) the early hominids,⁷⁷ our modern human ancestors were adept at hunting (using weapons and traps), which was essential to their survival when other foods were scarce. However, this raises the question of why humans did not then revert to a

⁷⁵ Grillo, *Farm To Fable*, pp.42-43.

⁷⁶ *Ibid.*, p.132.

⁷⁷ See, for instance, Rob Dunn, ‘Human Ancestors Were Nearly All Vegetarian’, *Scientific American* (July 2012) <<https://blogs.scientificamerican.com/guest-blog/human-ancestors-were-nearly-all-vegetarians/>> [Accessed 23 November 2022].

vegetarian diet when plant foods were plentiful once again – and particularly in modern times, when (outside the developing world) there has never been so much choice available to us.

One view is that we cannot relinquish the ego-gratifying self-image of ‘man the hunter’, which contrasts with the beggarly connotations of ‘man the scavenger’ or ‘man the fruit-picker’, rather than the all-powerful species at the top of the notional food chain.⁷⁸ We apparently cannot countenance such threats to our collective self-image, and here, again, we see a mythopoeic element at work, creating a powerful rationale to continue acting against nature.

In particular, while hunting may have arisen through necessity, it is also pursued recreationally, and has also come to define and test notional masculine attributes in many cultures and is bound up with traditional notions of animal killing as a natural human activity.⁷⁹ This association between meat and masculinity persists today in popular culture, where meat itself also serves as a representation of power generally.⁸⁰

Meat-eating as addiction

Such notions are augmented by the notion that our cravings for meat are true indications of our actual physiological needs: we like the taste, therefore eating meat must be natural.⁸¹ What this forgets entirely, though, is that when we talk about liking meat, we are referring to a product which has been butchered, dressed, cooked and flavoured - not raw, untreated flesh. Typically, for instance, people salivate at the sight of a roast chicken, fried bacon or a juicy steak, but not at the sight of a dead animal on the road or one being eviscerated in a slaughterhouse.

It is true, however, that the pleasure of eating meat is such that many people could not imagine going without it and are willing to accept virtually anything to ensure that it keeps being produced, regardless of all the animal suffering and degradation that occurs in the process.⁸² A plausible inference from this is that meat eating could be a form of addiction. And this would provide consumers with a powerful motive to embrace deceit to protect what they perceive as their essential needs. For if our ‘needs’ are threatened, we tend to become resentful and angry, which is how many people react to any suggestion that their personal choice to eat meat might be taken away from them.

⁷⁸ Interestingly, however, humans are not actually at the top of the ‘food chain’, according to a scientific study of the ‘trophic level’ of various species published in the *Proceedings Of The Natural Academy Of Sciences* in 2013. Humans score only 2 out of 5 – comparable to an anchovy or a pig. Sylvain Bonhommeau, and others, ‘Eating Up The World’s Food Web And The Human Trophic Level’, *PNAS* 110:51 (2013). Referenced in Grillo, *Farm To Fable*, p.114.

⁷⁹ Grillo, *Farm To Fable*, p.42 and p.104.

⁸⁰ Ibid., p.124. See also Carl Boggs, ‘Corporate Power, Ecological Crisis And Animals Rights’, in *Critical Theory*, ed. by Sanbonmatsu, p.85.

⁸¹ Grillo, *Farm To Fable*, p.31.

⁸² Ibid., p.85 and p.97.

Thus, as Carl Boggs observes, ‘Habit further requires powerful defense mechanisms: denial, cynicism, insulation, or cultural indifference’.⁸³

While one can become addicted to almost any kind of rewarding activity, this is reinforced if there is some kind of biochemical driver of that addiction. And there seems to be some evidence for this in cooked and processed meat and other animal products, according to some sources.⁸⁴ Some studies suggest that the combination of certain biochemicals, flavoursome sugars and fats which become activated during cooking (particularly frying and roasting) is highly addictive, hence the notorious craving for bacon, which tends to weaken the resolve of many would-be vegetarians.⁸⁵

Additionally, we may not realise (or may deny) that we have an addiction until we try to break the habit and then experience side-effects and cravings, which some people say they experience upon suddenly switching to a plant-based diet. With any change of diet, the body takes time to adjust, and this may involve such temporary physical reactions. However, given the persistence of the fiction that meat is our natural diet and that plant-based diets are inferior substitutes, one can see how these may be misconstrued as signs that something is wrong. And this kind of explanation is often encouraged by accredited influencers who are favourable to animal exploitation and the consumption of animal products. (See footnotes 100, 101, 110 and 111 below.)

This is not necessarily to argue that addiction is the primary or even a common explanation (for many or most people do not experience any issues at all). However, if there is an addictive element, it is plausible that this involves both psychological (personal) and social-psychological (collective) factors. Indeed, the latter may be more powerful, for addiction would be reinforced both by the general collective, and by industry fictions which promote meat-eating as desirable and natural – simply ‘what normal people do’.⁸⁶

⁸³ Carol Boggs, ‘Corporate Power’, in *Critical Theory*, ed. by Sanbonmatsu, p.85.

⁸⁴ While I have not been able to locate peer-reviewed sources, a number of interesting articles exist online which suggest that this is a real phenomenon. See, for instance, John Allen Mollenhauer, ‘Is Meat Addictive?’ *Nutrient Rich* (17 January 2009) <<https://nutrientrich.com/diet-trapped/is-meat-addictive.html>> [Accessed 12 November 2022].

⁸⁵ See, for instance, Heather Moore, ‘Bacon Apologists Prove That Meat Is Addictive’, *PeTA* (People for the Ethical Treatment of Animals) (20 November 2015) <<https://www.peta.org/blog/bacon-apologists-prove-that-meat-is-addictive/>> [Accessed 16 November 2022].

⁸⁶ The psycho-cultural aspect of meat addiction is the subject of an interesting review article (of Marta Zaraska’s book, *Meathooked*) by Marc Bekoff, ‘Hooked On Meat: Evolution, Psychology, And Dissonance’, *Psychology Today* (5 March 2016) <<https://www.psychologytoday.com/us/blog/animal-emotions/201603/hooked-meat-evolution-psychology-and-dissonance>> [Accessed 16 November 2022].

Flesh eating and 'doublethink'

An interesting perspective on the naturalisation of animal flesh as food is offered by Cora Diamond, notably in her paper, 'Eating Meat And Eating People'.

Diamond disagrees with Regan's and Singer's approaches, claiming that their arguments are 'confused' and that the focus on rights is misguided. Instead, she focuses on double standards such as the fact that we do not eat dead people (or our pets) - not because killing 'causes distress' to people, but because a person is not something to eat; for, otherwise, it would imply that eating animals is acceptable if they have not suffered and died for us, or if they are already dead.⁸⁷

A similar contradiction can be observed in the naturalised practice of consuming the milk and eggs of other species as part of our staple diet. What we market and consume regularly as 'dairy', for instance, is entirely unnatural (and unnecessary) for humans, having been formulated through evolution exclusively for the animals' own young, and which even they do not consume beyond infancy.⁸⁸ No taboo is attached to this practice, and yet the idea of adults consuming human breast milk would seem inherently abnormal, or even (for no logical reason) disgusting.

Diamond reasonably suggests that arbitrary ideas of differences between some animals as 'meat', some as 'vermin' and some as 'pets' are instilled (intentionally or by example) in childhood,⁸⁹ which concurs with Grillo's observation that, through socialisation, 'We teach our children a separate morality for food animals that intercepts a child's natural and indiscriminate tendency to empathise with all animals'. They are taught to distinguish between animals they should care about and those that they need not care about.⁹⁰ Thus, as an adult, one has to make a conscious and informed effort to see the contradictions involved in our collective perception of what certain animals are 'for'.

While I would concur in general with the thrust of Diamond's account, I would question her claim that arguments for nonhuman interests or rights are confused. While she is right to expose the primary and underlying contradictions which are implicit in the hypocritical cultural norms and attitudes towards animals,⁹¹ the moral evil is facilitated by the notion that we have a right to define and use them at all and is realised by what we *actually* do to them when they are alive and conscious, rather than the bare fact that we dine on their corpses. To say, 'I don't agree with eating bodies' is an assertion of taste; to say, 'I don't agree with killing animals' is to make a moral statement.

Thus, referring to Diamond's point above (see footnote 87), some do indeed believe that it is acceptable to eat an already-dead animal which has not been

⁸⁷ Cora Diamond, 'Eating Meat And Eating People', *Philosophy*, 53 (1978), 467-479 (pp.467-68).

⁸⁸ Grillo, *Farm To Fable*, pp.40-41.

⁸⁹ Diamond, 'Eating Meat And Eating People', p.469 and p.475.

⁹⁰ Grillo, *Farm To Fable*, p.136 and p.138.

⁹¹ Diamond, 'Eating Meat And Eating People', pp.473-76.

killed for that reason, such as roadkill.⁹² This is not, I stress, to argue for ‘benign’ carnivorousism, which, I think, gives false legitimacy to the ingrained idea that certain kinds of animal are ‘something to eat’. However, it does recognise a valid theoretical moral distinction between eating the dead, and intentionally causing death in order to eat the dead, as one might distinguish between eating wild windfall apples and eating apples stolen from a neighbour’s tree.

Eating human corpses is a powerful taboo (in most cultures) whose inconsistency would be exposed if, say, we were to ‘grow’ both anencephalic humans and nonhumans for meat – i.e., brainless physical bodies incapable of consciousness or sentience – or to manufacture human flesh artificially in a laboratory. There is no material difference between the flesh of a dead human or that of a dead animal; no rational basis upon which to consider a dead human body sacrosanct in itself, nor to treat it differently from that of an animal.⁹³ Indeed, again, the only real moral difference is whether obtaining flesh involves actual harms to sentient beings, and it is this, chiefly, that provides the moral underpinnings of vegetarianism.

As Robert Grillo and Carl Boggs have pointed out, there is no reason for us to raise and kill animals at all, and yet raising and killing animals for human consumption is by far the most significant cause of animal suffering of all.⁹⁴ The fact that it is an unforced social norm logically contradicts the belief allegedly subscribed to by most people (mentioned in the previous chapter) that animals should not be made to suffer without good reason.⁹⁵ This leads to the ‘the unavoidable paradox’, i.e., animals should not be subjected to unnecessary harm, yet killing animals that we have no need to eat ‘constitutes the ultimate act of unnecessary harm’.⁹⁶

Here, it seems almost superfluous to have to point out that, as we have no reason at all to cause such harm and suffering to nonhumans, and it is so easy for us to

⁹² In the Buddhist tradition, monks may consume meat if it is offered to them by a householder, provided that they have ensured that it has not been procured or killed expressly for their consumption. However, some sources suggest that Gautama himself did not sanction this practice and/or taught that meat-eating is an impediment to one’s spiritual life. For an extensive and detailed account see Josephine Nolan, ‘Lankavatara Sutra: “Eating Meat Has Countless Offences”; “Buddha Teaches It Is “Root of Great Suffering”’, *Buddha Weekly* (12 August 2011) <<https://buddhaweekly.com/lankavatara-sutra-eating-meat-countless-offences-buddha-teaches-root-great-suffering/>> [Accessed 13 November 2022].

⁹³ I am assuming here that the product would be genetically anonymous, to make the point. This is to put aside personal, religious and cultural sensitivities, which I think are a separate philosophical issue.

⁹⁴ Grillo, *Farm To Fable*, p.128 and p.151; and Carl Boggs, ‘Corporate Power’, in *Critical Theory*, ed. by Sanbonmatsu, p.85.

⁹⁵ Grillo, *Farm To Fable*, p.69, p.149. Citing Mylan Engel, ‘The Immorality Of Eating Meat’, in *The Moral Life: An Introductory Reader In Ethics And Literature*, ed. by Louis P. Pojman (New York: Oxford University Press, 2000) and p.66.

⁹⁶ *Ibid.*, p.66.

avoid doing so, the simple solution is to stop doing it.⁹⁷ It is both a personal and political choice;⁹⁸ and for Grillo, 'Being human means having a choice not open to other animals: we do not have to go along with the herd mentality'.⁹⁹

However, in practice, most human beings willingly go along with the herd decision to ignore this choice - a simple change which, nevertheless, is commonly apprehended as a form of unreasonable self-denial.¹⁰⁰ Ironically, the idea of vegetarianism as prohibitively difficult was accepted even by passionate opponents of animal cruelty such as Schopenhauer and William Hamilton Drummond, whose personal ethics did not extend to becoming vegetarian themselves. The moral inconsistency here is pithily summed up by Oliver Goldsmith when he remarks, 'They pity, and eat the objects of their compassion'.¹⁰¹

Veganism vilified

Although abstaining from meat has always been a minority practice in the West (while being a religious and cultural norm in the East), it can be traced back to ancient times, notably to Pythagoras (even in the 19th century, vegetarianism was still known as the Pythagorean diet) and Porphyry, who even argued for the exclusion of animal products such as milk and honey.¹⁰² Veganism proper was established by Donald Watson in 1944 as a boycott of all forms of animal products (i.e., not just food) and exploitation as far as possible.¹⁰³

To become a vegan is in a sense, to 'stand for' the animals whom one would defend against amoral norms of consumption: to confound the claims and denials of the animal exploitation industries and the comforting myths cherished by animal consumers. Simply by remaining alive and healthy, as Singer says, one exists as a reminder that nobody needs to consume or use animals (see Chapter 1).¹⁰⁴ It shows both how a compassionate and cruelty-free life, rather than being

⁹⁷ Grillo, *Farm To Fable*, p.118; and Boggs, 'Corporate Power', in *Critical Theory*, ed. by Sanbonmatsu, p.85.

⁹⁸ John Sorenson, 'Constructing Extremists, Rejecting Compassion: Ideological Attitudes On Animal Advocacy From Right And Left', in *Critical Theory*, ed. by Sanbonmatsu, p.232.

⁹⁹ Grillo, *Farm To Fable*, p.36.

¹⁰⁰ Ibid., p.119.

¹⁰¹ Oliver Goldsmith, *The Citizen Of The World*, in *Collected Works*, ed. by A. Friedman (Oxford: Clarendon Press, 1966), referenced by Peter Singer, *Animal Liberation* (The Bodley Head, 2015), p.159.

¹⁰² *Porphyry's On The Abstinence From Animal Food*, ed. by David Christopher Lane (California: Mt. San Antonio College Philosophy Group, 2017), p.17.

¹⁰³ For a full definition see The Vegan Society website <<https://www.vegansociety.com/>> [Accessed 17 November 2022].

¹⁰⁴ Peter Singer, *Animal Liberation*, p.176.

extreme or superogatory, is actually a modest contribution to the world¹⁰⁵ and is readily achievable by ordinary people with very little effort or inconvenience.

The surge in popularity of vegan products in recent years is indeed remarkable. The term *vegan* has become a kind of lifestyle meme which regularly appears in all kinds of popular cultural contexts. However, it is also remarkable that this resurgence has occurred largely without direct reference to the moral issue of animal exploitation, which inspired the vegan movement in the first place: in the mainstream marketing of vegan products, these things are rarely mentioned as reasons to buy them. It has been effectively repackaged as a positive lifestyle choice which benefits *us*: it is good for our health; good for 'our' planet.

This is not, I stress, to say that concerns over issues such as the environment are not valid reasons to be vegan (various animal protection organisations also promote this aspect of it), for various studies confirm that, 'The human appetite for flesh is a driving force behind virtually every category of environmental damage',¹⁰⁶ and conversely, that a plant-based diet can potentially play a crucial part in stopping or even undoing that damage.¹⁰⁷ But it is significant that this aspect of veganism has come to the fore, now that climate change is a clear and present threat to human beings, as though the impact on, and suffering caused to billions of nonhuman beings were not reason enough. The ingrained speciesist assumption here, I think, reaffirms Robert Garner's view that the recognition of animals' moral standing remains peripheral and tends to be limited to ecology.¹⁰⁸

Indirectly, then, a version of veganism has been legitimised in as far as it may benefit human interests, even while ostensibly prioritising nonhuman interests. Somehow, the collective has colluded in tacitly accepting veganism into society as a whole *on these terms*, even while it remains a potential threat to humans' collective vested interests in animal exploitation.¹⁰⁹ On this basis, veganism can be socially accepted, but not to the extent that it undermines accepted norms relating to animals as 'food'. Thus, it could be seen as 'dissent by assent': a potential threat to established norms may be effectively defused through conditional toleration of certain innocuous aspects of it even while undermining the movement as a whole.

¹⁰⁵ Grillo, *Farm To Fable*, p.166.

¹⁰⁶ Boggs, 'Corporate Power', in Sanbonmatsu, ed., *Critical Theory*, p.78.

¹⁰⁷ This view found support in the UN report, 'Livestock's Long Shadow'. Henning Steinfeld, and others, *Livestock's Long Shadow: Environmental Issues And Options* (United Nations Food And Agriculture Organisation, 2006), *Researchgate* <https://www.researchgate.net/publication/239524071_Livestock's_Long_Shadow_Environmental_Issues_and_Options> [Accessed 20 November 2022].

¹⁰⁸ Robert Garner, 'Political Ideologies And The Moral Status Of Animals', *Journal Of Political Ideologies*, 8:2 (2003), 233-246 (p.235) <<http://dx.doi.org/10.1080/13569310306087>>.

¹⁰⁹ Garner, 'Political Ideologies', p.244.

One can see this playing out in the way that popular publications continue to promote health myths about vegetarianism/veganism¹¹⁰ such as scaremongering over the supposed ‘dangers’ of soya products.¹¹¹ Another tack is to deploy scientific-sounding but evidentially null claims that veganism is actually more harmful to the environment¹¹² or that locally produced meat (‘locavorism’) is really more environmentally sustainable than a totally vegan farming system.¹¹³

Another dimension to this is the powerful influence of meat and meat consumption on social and cultural identity generally; indeed, Boggs likens the meat phenomenon to a kind of national secular religion.¹¹⁴ Thus, by adopting vegan values one becomes a non-conformist by definition and undermines prevailing anthropocentric notions of normality and entitlement. It is to invite the consequences of outsidership; to make oneself a potential target for the kind of contempt normally reserved for the animals themselves. One can be derided and abused simply for a sincere commitment to universal non-harm and compassion in a way that would not be tolerated (or legal in modern liberal democracies) in relation to one’s religious beliefs.

Thus, in populist media outlets, *ad hominem* arguments are deployed also, with vegans portrayed variously as pious and deranged extremists, or ‘self-righteous puritans’ who are ‘forcing their ideas down people’s throats’.¹¹⁵ Such propaganda-driven perceptions are part of a backlash which promotes the interests of the meat industry while discouraging those thinking about changing themselves.¹¹⁶ It serves to demonstrate the entrenchment of uncompassionate attitudes among the vast majority of people who not only refuse to countenance taking this step themselves, but who also condemn others who have already done so.

¹¹⁰ Grillo, *Farm To Fable*, p.102.

¹¹¹ For more information see, for instance, Nathan Zassman, ‘The Anti-Soy Madness – Debunking The Anti-Soy Arguments’, *AViVA* (23 April 2007) <<https://www.avivahealth.com/blogs/articles/anti-soy-arguments>> [Accessed 15 November 2022].

¹¹² Grillo, *Farm To Fable*, p.129.

¹¹³ Vasile Stanescu argues that distance travelled is not necessarily decisive in overall energy efficiency and local produce is not always more sustainable. Thus, ‘food miles’ is not always a reliable criterion in the context of overall energy use. Vasile Stanescu, ‘Green Eggs And Ham: The Myth Of Sustainable Meat And The Local’, in *Critical Theory*, ed. by Sanbonmatsu, pp.241-42 and p.246.

¹¹⁴ Boggs, ‘Corporate Power’, in *Critical Theory*, ed. by Sanbonmatsu, p.74.

¹¹⁵ Several commentators here have made similar points. See Boggs, ‘Corporate Power’; and Stanescu, ‘Green Eggs And Ham’, in *Critical Theory*, ed. by Sanbonmatsu, pp.90-93 and p.252. See also Grillo, *Farm to Fable*, pp.122-24.

¹¹⁶ Melanie Joy, ‘Speaking Truth To Power: Understanding The Dominant, Animal-Eating Narrative For Vegan Empowerment and Social Transformation’, *One Green Planet* (2013) <<https://onegreenplanet.org>> referenced in Grillo, *Farm To Fable*, p.149.

The misuse of power, 'the reactionary paradigm', and fascism

By standing for the animals through one's lived ethics, one can say, with Derrida, 'I am the Animal'. But to become the animal is to become *less*: to become 'weak' by association, to relinquish the power and privilege that is, purportedly, our human birthright. And a side effect of this is not just to court hostility, but also to fuel a collective fear of the possibility of living without power over others: the fear of being 'infected' by the apparent impotency that this represents. And this fear, seemingly, is what drives the counter reaction (indicated above) in the form of the masculinist reassertion of potency that I refer to as 'the reactionary paradigm'.¹¹⁷

The reactionary paradigm rests ultimately on a restrictive, elitist attitude to power, and involves first defining who *we* are and protecting 'our' privileges against the interests and undesirable characteristics attributed to 'the other' who might undermine us, whether it is other races, classes, nationalities, species. And in the latter case, the distinction is, historically, a categorical demarcation between 'that which is human and that which is not',¹¹⁸ which in turn gives rise to 'a hierarchical structure of domination'.¹¹⁹

By extension, this hierarchical conception of nature entails that the strong naturally dominate the weak - a key tenet of Nazi ideology.¹²⁰ However, as Weisberg notes, the Nazis used racial definitions interchangeably with species¹²¹ (hence undesirable or 'inferior' human groups were classed as *untermensch* or 'subhuman').¹²² And this reflects the way in which, historically, the exploitation of other species happened in tandem with the similar treatment of other human groups, as part of an entrenched caste-system.¹²³ For Weisberg, 'The intersection of racial and animal castes can be seen most vividly in fascist ideology; no other discourse so completely authorizes absolute violence against the weak'.¹²⁴ And, as Weisberg goes on to say, if we want to end this cultural violence, 'we need to

¹¹⁷ The term 'reactionary', which is often used synonymously with ultra-conservatism, originally denoted the desire to return to a former socio-political order, to react against progressive principles – which I take to include abolitionism in the context of animal ethics. See 'Reactionary', *Etymology Dictionary Online* <<https://www.etymonline.com/word/reactionary>> [Accessed 17 November 2022].

¹¹⁸ Aaron Bell, 'The Dialectic Of Anthropocentrism', in *Critical Theory*, ed. by Sanbonmatsu, p.166.

¹¹⁹ Christina Gerhardt, 'Thinking With: Animals In Schopenhauer, Horkheimer and Adorno', in *Critical Theory*, ed. by Sanbonmatsu, pp.141-42.

¹²⁰ Zipporah Weisberg, 'Animal Repression', in *Critical Theory*, ed. by Sanbonmatsu, p.204 and p.209.

¹²¹ *Ibid.*, p.206.

¹²² Ironically, perhaps (and I do not make this remark lightly or intend any disrespect), one can point to a kind of perverse logic in this: that is to say, in a sense it calls our philosophical bluff if we maintain that there are no moral or logical grounds (for instance via the argument from marginal cases) on which to justify doing harm to Subject A but not Subject B purely on the basis of their biological species. However, it misses the simple point implied by this – i.e., that we should do harm to no-one, regardless of species.

¹²³ Weisberg, 'Animal Repression', in *Critical Theory*, ed. by Sanbonmatsu, p.208.

¹²⁴ *Ibid.* See also Sanbonmatsu, Introduction, *Critical Theory*, p.11.

do away altogether with the animal caste itself, along with rituals of domination that continue to desensitize us to the suffering of nonhumans on a global scale'.¹²⁵

Today, there is no limit to our capacity to enforce our distorted and destructive notions of human potentiality and purpose upon nonhumans: indeed, they provide the ultimate litmus test of what humans are prepared to do in their own perceived self-interests when nothing exists that can stop them. For Sanbonmatsu, this manifestation of deliberate violence is the essence of fascism and totalitarianism: it is not ideology as such, but 'willed actions whose purpose is to show that there are no limits to what can be done to the individual'.¹²⁶

Sanbonmatsu further suggests that speciesism may not merely be a form of fascism but perhaps its 'paradigmatic or primordial form'.¹²⁷ I think this is plausible, subject to certain qualifications. The systematised and violent subjugation of other species (which has its antecedents in human prehistory) shares many overt characteristics and behaviours associated with fascism, which is a much more recent historical phenomenon.¹²⁸ However, there are important differences too. Speciesism manifests chiefly through the instrumental use of animals and, while it involves extreme violence and brutality towards them, this is normally incidental to the larger purpose: i.e., to exploit them. Fascism, by comparison, is a structured, political ideology in which the systematic violation and brutalisation of members of vilified human groups is carried out for its own sake; it is integral to its wider purpose, i.e., ultimately to annihilate those groups. And here one could broadly summarise the distinction by saying that, in general, speciesism is characterised by a kind of callous *indifference* to the suffering caused to its victims; fascism, on the other hand, is generally characterised by enmity and an active *hatred* of its victims.¹²⁹ That said, the idea of fascism having a primordial dimension is a striking and important one, in that it seems to be capable of being extended to allow (in my interpretation) that it may be deeply rooted and latent in the human psyche, rather than existing only as one discrete and overt historical, socio-political phenomenon which we generally (and understandably) abhor and distance ourselves. (I will be exploring this issue further in the next chapter.)

¹²⁵ Weisberg, 'Animal Repression', in *Critical Theory*, ed. by Sanbonmatsu, p.205.

¹²⁶ Sanbonmatsu, Introduction, *Critical Theory*, p.4.

¹²⁷ Ibid., p.10.

¹²⁸ Other commentators, including members of the Frankfurt School and writers such as Isaac Bashevis Singer, have drawn explicit parallels between the treatment of animals and the Nazis' treatment of the Jews. For a notable modern account see Charles Patterson, *Eternal Treblinka: Our Treatment Of Animals And The Holocaust* (New York: Lantern Books, 2002).

¹²⁹ For a more detailed and apposite discussion of related arguments based on intersectionality (i.e., apparent commonalities and differences between the oppression of certain racial groups and the oppression of nonhuman species), see Rebekah Humphreys, *Animals, Ethics And Language* (Palgrave Macmillan Animal Ethics Series, 2023), Chapter 2, 'Moral Standing And Human Exceptionalism'.

Marxism, speciesism and the Left

Some support for this claim can be offered by the observation that (despite the espousal of justice, fairness and equality for disempowered members of society within radical thought), the Left shares with the Right ‘an anthropocentric, instrumentalist view of nature’¹³⁰ and a similar indifference to animal rights.¹³¹ It also marginalises animal liberation as a legitimate social movement, as part of a general attitude on the Left that caring about animal suffering detracts from caring about human beings.¹³²

This position can be traced back directly to Marx and Engels, who openly derided the animal welfare movements of their time.¹³³ Marxism focused exclusively on human interests in relation to the exploitation of nature, leaving animals merely as part of the wider ‘biological realm’.¹³⁴ As Ted Benton notes, while Marx recognised that humans share natural needs with animals and plants, he distinguished sharply between basic, physical ‘animal needs’ and ‘human needs’.¹³⁵ For Marx, the human species can develop in ways that other species cannot, through an historical, transformative process of ‘self-creation’.¹³⁶ On this view, nature exists simply to provide the raw material for humans to use in the pursuit of their self-realisation;¹³⁷ thus, nonhuman life is accorded no purpose or function (*telos*) in itself.¹³⁸ And here one can see how this explicitly supports an instrumental attitude to, and use of, the natural world, sentient or otherwise.

There are echoes here of both Aristotle’s and Aquinas’s hierarchical conception of nature discussed previously (and which we will return to in relation to natural law theory in Chapter 10). For Marx, animals cannot become more than mere animals, while nature achieves its highest state of realisation through the human species.¹³⁹ The result, it seems to me, is a kind of grossly inflated anthropocentrism – what Benton describes as ‘a quite fantastic species narcissism’¹⁴⁰ – where humans assume a kind of secular equivalent of Kant’s ‘holiness’ (see Chapter 6) but with no notion of a supra-human or ultimate source of that holiness, thus creating in turn a kind of self-referential, self-justifying loop.

¹³⁰ Sorenson, ‘Constructing Extremists’, in *Critical Theory*, ed. by Sanbonmatsu, p.225.

¹³¹ Llorente, ‘Reflections On The Prospects Of A Non-Speciesist Marxism’, in *Critical Theory*, ed. by Sanbonmatsu, p.123. See also Sanbonmatsu, Introduction, *Critical Theory*, p.14.

¹³² As Sanbonmatsu points out, Leftist attitudes to animal exploitation and suffering hardened under communist regimes in USSR and China. Sanbonmatsu refers to this as the ‘hard masculine’ aspect of revolution. (This, I think, reflects my point at footnote 117.) See Sanbonmatsu, Introduction, *Critical Theory*, p.19.

¹³³ Ibid., p.16.

¹³⁴ Boggs, ‘Corporate Power’, in *Critical Theory*, ed. by Sanbonmatsu, p.89.

¹³⁵ Ted Benton, ‘Humanism = Speciesism: Marx On Humans And Animals’, in *Critical Theory*, ed. by Sanbonmatsu, p.114 and p.116.

¹³⁶ Ibid., pp.102-04.

¹³⁷ Ibid., p.104.

¹³⁸ Aaron Bell, ‘The Dialectic Of Anthropocentrism’, in *Critical Theory*, ed. by Sanbonmatsu, p.165.

¹³⁹ Benton, ‘Humanism = Speciesism’, in *Critical Theory*, ed. by Sanbonmatsu, p.107.

¹⁴⁰ Ibid., p.105.

For Marx, 'That man's physical and spiritual life is linked to nature means simply that nature is linked to itself, for man is a part of nature'.¹⁴¹

This is a complex issue which Benton discusses in depth, and I risk oversimplifying it here, but it seems to me that Marx places humans both within and above nature, and in the process puts aside our intrinsic links with nonhuman species via evolution.¹⁴² In Benton's critique, 'Marx exaggerates both the fixity and limitedness of scope in the activity of other animals, and the flexibility and universality of scope of human activity upon the environment'.¹⁴³ And, such a notion of the inherent superiority of humans forgets the underlying materialist conditions which they (in common with nonhumans) depend upon.¹⁴⁴ Indeed, to look at it the other way around, Marx's dismissal of nonhumans ignores the fact that they, too, are significant creators of economic value, either through forced productive labour for their human owners or the illegitimate acquisition and transformation of their physical bodies into commodities – for which they do not (and cannot) receive due recompense.

Thus, Benton says, Marx's humanist view of animals was not just wrong but 'cut him off from a powerful extension and deepening of his own ethical critique of (capitalist) modes of appropriation of nature',¹⁴⁵ and also wrong in ways that undermined his view of 'the desirability of a changed relationship between humanity and nature' within in a communist society.¹⁴⁶ Accordingly, for Johnson, 'By founding our societies on systemic violence against other animals, we distorted our own "species being" in the process' - including our "human" capacity for empathy'.¹⁴⁷

Marx's view of nature, then, itself also represents and conforms to the prevailing, distorted, ideological picture of our exploitative relationship with nonhuman beings, making that exploitation seem natural, just as ruling elites regard the exploitation of human labour as an expression of the 'natural order', which forgets that (through technological advances) we no longer 'need' to exploit other sentient beings, and have a clear choice not to do so.¹⁴⁸ In addition to which, it displays the ingrained and erroneous assumption (exposed by Sapontzis and others, as discussed in Chapter 1) that our demonstrable power over other animals means that they have no moral status:¹⁴⁹ in effect, that capacity-potency is inherently self-justifying; or, more commonly, that 'might makes right'.

¹⁴¹ Karl Marx and Frederick Engels, *Collected Works* (London: Lawrence and Wishart, 1975), referenced in Benton, 'Humanism = Speciesism', in *Critical Theory*, ed. by Sanbonmatsu, p.99.

¹⁴² Benton, 'Humanism = Speciesism', p.112.

¹⁴³ *Ibid.*, p.108.

¹⁴⁴ Horkheimer's view represented in Christina Gerhardt, 'Thinking With: Animals In Schopenhauer, Horkheimer and Adorno', in *Critical Theory*, ed. by Sanbonmatsu, p.138.

¹⁴⁵ Benton, 'Humanism = Speciesism', p.111. Benton's critique is also represented by Sanbonmatsu in his Introduction, *Critical Theory*, p.19.

¹⁴⁶ Benton, 'Humanism = Speciesism', in *Critical Theory*, ed. by Sanbonmatsu, p.111.

¹⁴⁷ Johnson, 'Everyday Rituals Of The Master Race', in *Critical Theory*, ed. by Sanbonmatsu, p.212.

¹⁴⁸ See Llorente, 'Non-Speciesist Marxism', in *Critical Theory*, ed. by Sanbonmatsu, pp.131-35.

¹⁴⁹ Benton, 'Humanism = Speciesism', in *Critical Theory*, ed. by Sanbonmatsu, pp.109-10.

There is a distinct sense of *déjà vu* here. The blunt exclusion of nonhuman animals from Marxist discourse is in keeping with the way in which they have been excluded from (or warrant no moral status in) Aristotelianism, Cartesianism, Kantianism, utilitarianism, contractualist justice theory and other major philosophical systems discussed in previous chapters. Admittedly, latter-day thinkers have shown how it is *possible* to incorporate animal ethics into such major systems, or to amend those systems to enable this to happen – even including some key aspects of Marxian thought.¹⁵⁰ However, it seems to me that this misses the most important point: the question of why so many of the most influential philosophers in the Western tradition did not do this in the first place; why they effectively closed ranks against, or simply ignored animals as objects of moral concern.

Unless one believes that they were incapable of detecting the kinds of logical contradictions, moral inconsistencies and factual errors associated with humanity's long history of animal exploitation and abuse, which have been readily apprehended and signally exposed by thinkers in modern times, it seems more likely that these things simply did not enter their spheres of enquiry; they chose not to address them, or if they did, summarily dismissed them in the same way that ordinary, untrained people commonly do. They defaulted to unexamined and prejudicial notions that animals were neither objects of serious philosophical interest nor of moral concern, and in effect 'tuned them out' from their thought processes.

In this chapter I have considered ways in which this 'tuning out' manifests in society, together with its wider implications. And, while I have described this, essentially, as a function of ideological thought, in the sense of direct influences over what we perceive and think, I do not see it as something that disables our rational faculties, or our native ability to see what stares us in the face, but rather as a product of the will. It seems to operate as kind of filter which (like the various facial editing apps available on modern smartphones) gives us the choice to harmonise, or rather to reconstruct, what we see with what we have already decided that we want to see (or believe), and to erase those things that we do not wish to accept; that is, we either deny it or we rationalise it.

What is perhaps most significant is not that 'fictions' exist and may be cynically employed by those with interests to protect, but the degree to which we are commonly prepared to embrace, deny, and defend them, even after they have

¹⁵⁰ As Llorente points out, animal liberation and socialism both denounce and oppose domination, exploitation and oppression, leaving open the possibility of idea sharing and even *rapprochement* between them. Llorente, 'Non-Speciesist Marxism', in *Critical Theory*, p.127. See also Sanbonmatsu, Introduction, *Critical Theory*, p.20.

been exposed as fictions. And the fact that (referring to the animal exploitation industries) we do this collectively, with the endorsement of our peers and in keeping with social norms, makes it immensely powerful. Once we have become accustomed to and begin to conceive our sense of self through the 'improved' plasticised image, which is continually reinforced for us through repetition, the unreconstructed version becomes more painful to look at, more 'alien' to us; the unvarnished truth comes to offend us. And if the truth hurts, this is hardly a motive to seek it out, or to take heed of those who threaten to reveal it to us.

This latter point – this apparent vanity behind our collective aversion to the truth - I believe, opens up a much deeper (and multi-layered), psychodynamic and egocentric dimension to this issue, which will be discussed, along with other related issues, in the next chapter. And here I would contend that the historical, creative self-transformation and self-realising process of human beings described by Marx is neither ideologically nor morally neutral, even in the kind of post-ideological, rational political economy that Marx envisaged. Rather, it is the reification of a false, mythologised, desire-driven image of ourselves and what it means to be human (hence the analogy suggested above); and this image ultimately reflects the distortions and conflicts inherent in the egoic self, which, when this is projected on to the world through our creative activities within it, ultimately alienates us from it.

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Chapter 8

The problem of the ego: the illusory self as the foundation of human estrangement from nature

The current chapter keeps the focus on the human aspect of this thesis and builds on issues arising from the previous discussion of the ways in which individuals may misperceive and misrepresent external phenomena and extends that discussion to the related question of whether humans may similarly misperceive that which is at the centre of those outer perceptions – the experiencing entity which we refer to as the self.

I would argue for this as a matter of consistency, in that there is no reason to suppose that self-perception should be less prone to distortion than any other kind of perception. Indeed, I would further argue that our common apprehension of the self is not merely a misperception in itself but also causes us to misapprehend (metaphysically speaking) the outer world.¹

For the purposes of this discussion, I am employing the term *ego* specifically to denote the ideational-conceptual notion of self as a discrete entity, as opposed to the reflex perception of the ordinary situational or indexical self, which has been argued for as a common property vital to the basic functionality of all sentient species, as outlined in Chapters 2 and 3. This specialised, conceptual, self-objectifying aspect of human perception, I contend, is what distinguishes us from other sentient species, including those apparently capable of minimal reflexivity.

Thus, by virtue of their capacity for virtually unlimited re-reflexivity,² humans are able (to admit the paradox) to objectify the subjective realm of experience and the *experiencer* in a way that, as far as we can determine, other animals cannot. However, I am further arguing that this singular ability – which was identified as a unique and defining advantage for humans in Chapter 3 – may itself be the key to understanding (what I see as) our uniquely dysfunctional presence in the world, as a species. Seemingly, the advances in complexity-consciousness gifted by evolution are not matched by humans' collective competence to make good and proper use of that advantage.

¹ See Chris Niebauer, PhD, *No Self, No Problem: How Neuropsychology Is Catching Up To Buddhism* (Hierophant Publishing, 2019), Chapter 1, Section 2 ('Exploration'), paras 3-4. Kindle ebook.

² I deployed this term in Chapter 3 in relation to the 'barber's mirror' analogy, where (I argue) humans are able to reflect on successive 'layers' of thoughts virtually *ad infinitum* – while even high-functioning nonhumans who can access their own basic thought-processes seem to lack this advanced ability.

In particular this helps to substantiate Schopenhauer's repeated emphasis on the self as the most significant impediment to a truly moral response to other living beings. Thus, rather than thinking of the egoic self as a kind of neutral, essentially descriptive concept, my contention is that it is not only deeply problematic in its own right, but central to those problems, identified in previous chapters, which are associated with the apparent estrangement of human beings from the world – in particular our wider relationship with (and alienation from) the matrix of the natural environment, other humans, and other species.

While this discussion is specifically concerned with the ego in its own right, it will be difficult to proceed without reference to some of the abstruse philosophical questions and problematics associated with self-identity theory that naturally arise from that question. However, for the purpose of this chapter it will be necessary to condense those issues somewhat in order to focus specifically on the phenomenon of egoic self-perception.

A range of other relevant issues explored in previous chapters will naturally tend to converge upon this discussion (this is deliberate, as these issues need to be marshalled together in preparation for the natural law discussion in Chapter 10), and these will be indicated in the text where appropriate.

Towards the end of the chapter, I will link the above contentions to the specific question raised in Chapter 7, concerning the possibility of a primal dimension within fascism (considered as a kind of psycho-social archetype rather than a particular kind of political movement), which I think can only be properly understood in relation to the deep phenomenon of the ego, as I am defining it here.

The elusive self and the illusion of ego

To talk philosophically about the self is tacitly to accept it as an identifiable aspect of conscious existence, and I am following suit in this discussion. The question of whether that self or person *really* exists is an important one, but it does not change the fact that we ordinarily experience it *as though* it exists, whether we think it is a substantial entity or merely some sort of perceptual mirage.

This issue comes to the fore in Locke's account in Chapter 27 of *An Essay Concerning Human Understanding*, where – moving on from the Cartesian notion of the 'I am' - he considers the question of what we exist *as*, and what makes us *us* over time. I am referring here to Locke's position to provide a kind of conceptual baseline rather than as the basis of a critical review of his account. However, as this discussion progresses it will be apparent that I deviate from traditional substantial

or literalist notions of ‘the self’, ‘the soul’ or ‘the person’, which are central to Western thought,³ and argue instead for the ‘I’ as a false image and construct, or ‘self-conceit’,⁴ for which I have appropriated the term *ego* or egoic self.⁵

What is helpful in Locke’s account is his break from the identification of the person with the possession of a certain physical form, and his shift towards consciousness, the subjective awareness of self over time (i.e., through memory) as the central criterion. (Locke, like Descartes, conceived of the soul as a real entity which survives the body after death, and indeed did not regard the body itself as pertinent to identity.)⁶ Most, I think, would readily and intuitively recognise what Locke is saying here:

I think [it] is a thinking intelligent being, that has reason and reflection, and can consider itself as itself, the same thinking thing in different times and places; which it does only by that consciousness which is inseparable from thinking, and, as it seems to me, essential to it.⁷

For Locke, what we call self-consciousness enables us to distinguish ourselves from all other thinking things. And, on this view, he avers, the question of what he refers to as ‘the same substance’ does not arise.⁸ He also stresses that when human beings perceive, think or act, they *know* that they do; hence, ‘It is impossible for anyone to perceive without perceiving that he perceives’.⁹ However, if consciousness necessarily entails self-consciousness, this logically entails that it must be true wherever consciousness is present, regardless of species. Indeed, it is arguable that Locke’s account does not necessarily tie personhood to species: it is basically a set of capabilities or attributes that ‘admit of degrees’ and could apply to any creature able to value their own existence.¹⁰

³ Niebauer, *No Self, No Problem*, Introduction, para. 5.

⁴ To use the archaism deliberately, to stress the self as *idea* and the connotative meaning of conceit as a byword for an *inflated* idea of self. This term appears in the discussion of Buddhism later in this chapter.

⁵ The essential idea of the egoic self-concept/conceptual self-identity, which is fundamental to this chapter, owes to the writings and other teachings of Eckhart Tolle. See for instance Eckhart Tolle, *A New Earth: Awakening To Your Life’s Purpose* (London and New York, Penguin, 2005), p.28.

⁶ Bernard Williams, *Problems Of The Self: Philosophical Papers 1956-1972* (Cambridge: Cambridge University Press, 1973), p.1.

⁷ John Locke, *An Essay Concerning Human Understanding*, Chapter 27, ‘Of Identity And Diversity’, Section 9. Reproduced in *Personal Identity*, ed. by John Perry (Berkeley, Los Angeles and London: University of California Press, 1975), p.39.

⁸ Ibid.

⁹ Ibid.

¹⁰ Sarah Chan and John Harris, ‘Human Animals And Non-Human Persons’, in *The Oxford Handbook Of Animal Ethics*, ed. by Tom L. Beauchamp and R. G. Frey (Oxford and New York: Oxford University Press, 2011), p.306.

Locke's account implicitly involves a conceptual division of the self as subject and the self as object which was conceived explicitly by Kant: i.e., that which is at the centre of consciousness, and that which is aware of that centre of consciousness.¹¹ (Very broadly speaking, one could also identify this apparent dual aspect of the self with Mead's coinage of the terms 'I' and 'Me'.)¹² I am taking a similar position in this chapter, but I am envisaging the self not as a definite, really-existing thing which can see itself in the mirror, but rather the agency through which that apparent self arises and becomes objectified as if it were a really-existing thing in itself. This is the self-consciousness of the ego.

However, literal self-consciousness does not necessarily entail a manifest, apparently substantial ego in the sense that I am defining it here. This, I contend, arises from humans' specialised capacity for recursive and intrusive self-reflexivity (referring again to the 'barber's mirror' analogy in Chapter 3), which enables humans indirectly to perceive (or infer)¹³ our own subjective locus as though it were an objective, immutable presence. In this situation, the viewer is in effect superimposed on their own perceptions, like a kind of 'I-mirage' in the background, and thus cannot simply see the world in a neutral sense but in effect automatically frames what is seen as *my* world.¹⁴

This creates an additional virtual dimension or tier of perception, over and above the ordinary and limited I-locational sense of self and even the very limited reflexivity which may be present in some nonhuman species (see Chapter 3). Thus, I am distinguishing between simply recognising the apparent actuality of one's self-existence and having a *view* (in both senses of the word) of one's self-existence; in other words, making a distinction between the subjective core of the experiential entity and the objectifying, conceptual self that we apprehend phenomenologically as 'me'.

The effect of this is presumptively to demarcate the ordinary experiential self in a way that appears to transcend the manifest elements and givens of mundane, diurnal existence. In this respect, the experiencing self is detached from its active

¹¹ Andrew Brook, 'Kant's View Of The Mind And Consciousness Of Self', Section 4, *The Stanford Encyclopedia of Philosophy*, ed. by Edward N. Zalta (2013) <<http://plato.stanford.edu/archives/fall2013/entries/kant-mind/>> [Accessed 21 April 2023].

¹² George Herbert Mead, *Mind, Self And Society*, ed. by C. W. Morris (University of Chicago, 1934), cited by George Cronk in 'George Herbert Mead', Section 3c, *Internet Encyclopedia of Philosophy* <<http://www.iep.utm.edu/mead/>> [Accessed 21 April 2023].

¹³ Here I am attempting to stress that we do not see it *objectively* and directly, but that we still experience it as though it were a real thing – somewhat as we see our reflection in the mirror *as* an object, not an image.

¹⁴ In a similar way, Richard Smoley envisages a person enclosed in a 'mirror box', in which they see nothing but reflections of themselves. See Richard Smoley, *A Theology Of Love: Reimaging Christianity Through A Course In Miracles* (Vermont: Inner Traditions, 2019), Part 1, Chapter 5, para. 6. Kindle ebook.

context to become a 'portable' conceptual entity (a self which comprises and is subject to, thoughts independent of physical context). Through our human capacity for self-reflexivity we have the innate capacity not only to 'perceive that we perceive' that self but are subject to arbitrary notions or distortions arising from the image of that self.

By this I mean that one does not merely self-identify as this or that entity but assumes a status by virtue of being that particular entity: one draws a metaphorical outline around oneself, such that the outline is as 'real' as what it contains. Thus, rather than merely demonstrating observable differences between this entity A and that entity B (self and other), the focus shifts to the special characteristics of A that make it not B: and by extension, the implicit question of what is significant or value-related about the distinction between A and B. In short, this is to distinguish between self-recognition and self-*regard*: the belief that this self matters more than that one (see Chapter 1).

A further ramification of this conceptual 'portability' is that the self exists within, but is no longer determined by, spatio-temporal givens (and becomes similarly detached from the natural, law-like constraints of what I called 'respectivity' in Chapter 6) in relation to all other life forms. The self now exists in an ideational space, an arena where it develops an apparent reality of its own. And in this space, the self is not a discrete 'free-floating' idea but an evolving subject within a constructed world of ideas which provides the growth medium and the building blocks of that self, such that it manifests as an apparently real entity – a person, a soul, which, conventionally, 'has a life'; and this is the basis of what I would characterise as the fetishised or mythologised self, the self as idol.

***'The storytelling animal'*¹⁵**

As far as we can determine, humans are the only beings that mythologise their own mortal existence: i.e., that entertain a creatively-managed self-percept derived from the raw material of discrete lived experiences, but which also appears to be more than the sum of those lived experiences. Humans do not just passively record and recall a live-stream of goings-on in the world (as cognitively advanced nonhuman animals appear to do) but merge and historicise those events into some form of constructed overview (or narrative) which is taken to represent the self that experiences or gives rise to those events. And, importantly, this is a two-way

¹⁵ See Alasdair MacIntyre, *After Virtue* (Chapter 15, 'Virtue, Unity Of A Human Life, Concept Of A Tradition'). I am not purporting to represent MacIntyre's whole argument here, but in this brief section I am borrowing the essential principle. Alasdair MacIntyre, *After Virtue* (London; New York; Oxford; New Delhi; Sydney: Bloomsbury Academic, 2007), p.250 ff.

process: i.e., the resulting narrative also feeds back into the construction of the self which authors that narrative in the first instance. In MacIntyre's phrase, 'The unity of a human life is the unity of a narrative quest'.¹⁶

In that process, we spontaneously apprehend and dramatise our own subjective experiences as a seemingly objective continuity of phenomena to create a 'life story' in which the self is both author and protagonist, and in which the self becomes absorbed. This manifests as the (often quoted) 'tale told by an idiot, full of sound and fury, signifying nothing':¹⁷ the import being that the poor raconteur *believes* the tale, for all its incoherence and inconsequentiality, to be real, and indeed to signify everything. Thus, the fictions we create, both in relation to ourselves and to others, appear to be true and observable facts about our intersection with the phenomenal world – 'facts' in which our entire sense of selfhood is invested.¹⁸

The self as a 'special effect'

While the human capacity for unlimited self-reflexivity seems to be the defining quality of advanced complexity-consciousness, we do not seem (normally) to be in direct control of that faculty; it takes on a perplexing reality of its own and eventually comes to define *us*; we create interior representations of the world, which we come to accept and respond to as reality – rather as dreams, however incoherent, assume the character of real events. We are not normally able to decide how dreams will play out: we experience them subjectively as actors, or even victims - not as author-directors who consciously create them.

Like Shakespeare's 'idiot', we too come to *believe* in the incoherent fictions we create, for we have acquired the capability to make them seem *believable* and even to make them believable to others, at least where we share the terms of those beliefs. As a species, we have the unique capacity to realise these fictions in public space through the faculty of language and other forms of symbolic representation. Accordingly, most cultures use various devices such as props and costumes to lend the character of historical reality to stories and myths, which also lend plurality to the story of 'me', whose common features provide a framework for the story of 'us'. Fictions then faithfully reflect the perceptions, beliefs and level of sophistication of the societies in which they emerge.

¹⁶ MacIntyre, *After Virtue*, p.253.

¹⁷ William Shakespeare, *Macbeth*, Act V, Scene 5, 26-27. *The Illustrated Stratford Shakespeare* (London: Chancellor Press, 1987), p.795.

¹⁸ See Niebauer, *No Self, No Problem*, Preface, paras 11-12.

In modern times, we have developed advanced CGI and 3-D virtual reality to achieve and enhance this effect in films and games. In critical terminology, this is *vraisemblance* ('true seemingness');¹⁹ and in its highest form, it involves creations that appear to be faithful representations from life. And even though we may still recognise these things as artificial constructs, we nevertheless allow them to persuade us that they are *real*.²⁰ Indeed, the images themselves *are* real in the sense that they comprise actual phenomena - light waves, colours, shapes, movements, and so on - and seem to replicate their real-life counterparts, even though they do not manifest *as* the real objects, events and phenomena that they represent. Accordingly, they may evoke reactions in us, including fear, which are identical to those that would accompany an actual rather than represented set of events.

In a similar way, I am suggesting that the 'biological technology' of re-reflexivity (in tandem with the emergent capacity for abstract representation) facilitates an immersive, virtualised environment in which the egoic self-image evolves. And this image, I suggest, is informed (*in-formed*) by an acquired pool of belief-representations of the world, and the phenomenon of the self in relation to that world, such that we have no independent basis upon which to critically examine our own naïve percepts of that image or the meaning that we attribute to them.²¹ This, I think is entailed by the problematic notion of phenomenal consciousness (which Carruthers sees as a defining characteristic of human beings against nonhumans): the subjective experience of 'what it is like' to exist (see Chapter 3). We know what it is like to exist as this self, but we cannot see what we are likening it *to*.

However, I think that any significant distinction between humans and nonhumans consists not in the presence of bare self-recognition, nor even in the bare recognition of one's internal states, but in the innate capacity for creatively interacting with the individualised provisions and parameters of self-space within which the world is experienced. In other words, human self-consciousness has this extra, abstract-conceptual and discursal dimension which enables us to

¹⁹ See, for instance, '*vraisemblance*', *Collins Dictionary*

<<https://www.collinsdictionary.com/dictionary/english/vraisemblance>> [Accessed 15 April 2023].

²⁰ Increasingly powerful computers can run more complex CGI that gives greater and greater fidelity to what we take to be reality, leading some to predict that CGI will eventually become indistinguishable from normal 'background' reality.

²¹ While I am describing this in naturalistic terms, this is essentially similar to the esoteric account of the ego's misperception of the apparent world given by Smoley in *A Theology Of Love*. I am not necessarily endorsing the wider teachings of *A Course in Miracles* (ACIM), but I believe that Smoley's perspective on the ego is particularly apposite here. See Smoley, *A Theology Of Love*, Part 1, Chapter 6, paras 30-38.

access and experience the apparent subjective phenomenon of the self in a way that nonhumans seemingly cannot.²²

As a consequence, whereas conscious nonhumans may readily perceive that they, individually, are the common-denominator of their experiences, human beings take the extra leap of reflective perception that this common denominator is a really-existing, overarching thing called 'my life'. Thus, we have a creative and dramatic relationship with that self; and the mythopoeic narratives created in the process take on the character of 'facts' over time. We forget we are in a story because the story is what makes us.

For virtually all of us, the self seems self-evidently and centrally real, for we cannot normally - except in radically altered states of consciousness - experience it as unreal (which, even then, entails a logical contradiction).²³ It is, again, somewhat like CGI filmic images, real enough for its experiences to involve and concern us; unlike external perceptual distortions (what is seen), which we can gauge against some other contradictory percept or datum, we have no way of un-seeing what we are seeing *with*. By the same token, we have no direct way of evaluating the radical suggestion that what we are seeing with may not only mislead us but may itself be some kind of illusion.

It is also arguable that the ultimate source of a thought, 'this is a self' is not necessarily the same as the apparent self-entity entertaining that thought; theoretically, that entity may itself be a creation of a thought arising elsewhere - even, perhaps, as a whim of Descartes' demon. That is to say, referring to Niebauer again, 'I am' is a product of thought;²⁴ but it does not necessarily mean that this particular 'I am' entity is the thinker of that thought: indeed, one could say, equally, 'I think that I am, therefore I am that thought.'²⁵

The self as illusion – the Western and Eastern views

The view that the self, the 'I' is not a substantial entity in its own right, but is a kind of misperception or illusion, is a familiar theme in Eastern thought. Remarkably, however, David Hume seems to have apprehended even this counterintuitive idea through the application of first principles. For Hume, the self

²² For Niebauer, language is central to the creation of the collective notion of the self. See Niebauer, *No Self, No Problem*, Chapter 2, para. 16.

²³ I will be revisiting the wider ramifications of egoic misperception in the next chapter.

²⁴ Niebauer takes this to imply that, without thought, the self does not exist. See Niebauer, *No Self, No Problem*, Introduction, para. 9.

²⁵ Less elegantly, I would suggest the form: 'There is a thought that I am; therefore the I am that thinks that I am is the product of that thought'.

cannot be detected directly as the self-evident 'I am' argued for in Descartes' view, but rather, as Hume argues in the *Treatise Of Human Nature*, the 'I' can only be inferred from sensations and ideas. We are, he says, 'nothing but a bundle or collection of different perceptions which follow each other enormously quickly and are in a perpetual flux and movement'.²⁶ Crucially, we cannot identify the mind as an entity that exists independently of what is going on within it, nor use it as the very thing in which our personhood consists:

The mind is a kind of theatre, where several perceptions successively make their appearance; pass, repass, glide away and mingle in an infinite variety of postures and situations. There is properly no *simplicity* in it at one time, nor *identity* in different, whatever natural propension we may have to imagine that simplicity and identity.²⁷

This seems consonant with the fact that, to date, scientists have not identified a part of the brain that corresponds to the notion of the self. Instead, Niebauer posits the plausible theory (linking a form of scientific reductionism with Buddhist principles) that the internal sense of the self may arise as a by-product of the left-brain's function in processing and organising sense-data and ideas into a coherent form.²⁸ This sense could include (in my view) what Anthony Quinton describes as, 'that dim, inchoate background, largely composed of organic sensations, which envelops the mental states occupying the focus of attention'.²⁹

However, while we may not be able to capture the 'I' that I am, nor even say what it is or where it comes from, it seems that we cannot escape from it either. If the self really did not exist at all, it could not deny its own existence; and nor, crucially, could it experience suffering, which (on a Buddhist view) is common to all sentient life-forms.³⁰ Here again we encounter the experiential locus or neural 'hub' which recognises itself as the subject of various events, impressions, thoughts, and so on, and which integrates those disparate elements into an apparently coherent pattern of phenomena.

The explanation offered by Hume, when he turns to 'diversity' (how different objects or events are defined as collectives) in relation to the continuity of a person, is that the mind has an innate tendency to group similar or similar-seeming things

²⁶ David Hume, *A Treatise Of Human Nature*, Book I, Part IV, Section VI ('Of Personal Identity') in *Personal Identity*, ed. by Perry, p.162.

²⁷ Hume, *Treatise*, in *Personal Identity*, ed. by Perry, p.163.

²⁸ Niebauer, *No Self, No Problem*, Introduction, paras 14 and 17. (It may be recalled from Chapter 3 that the same is true of consciousness itself.)

²⁹ Anthony Quinton, 'The Soul', *The Journal of Philosophy*, 59:15 (1962), 393-409 (p.394) <<http://www.jstor.org/stable/2022957>> [Accessed 20 April 2023].

³⁰ However, in Buddhist teaching, it is the illusion of the self which is the ultimate cause of suffering. See Niebauer, *No Self, No Problem*, Introduction, para. 14 and Chapter 1, Section 1 ('Classic Studies'), para. 23.

together as a unity for perceptual convenience and to treat them as one continuous object or sequence – a view akin to Gestalt (meaning shape or form) theory in psychology.³¹ We supply the sense of continuity, to create an idea of one continuous object of causality.³² If Hume is right, this is just the way that the mind sorts sense impressions into patterns and thereby makes them more coherent, whether we are dealing with rivers, stellar constellations, or human beings.

Thus, it seems that the underlying mistake is to think of a person as a specific thing in itself that can be defined in terms apart from its manifest interaction with its spatio-temporal matrix: as Eckhart Tolle sees it, the ‘I’ is ‘the primordial error’.³³ Instead, it may be more useful to think of the self as a *process*, a causal line³⁴ comprising an ongoing sequence of actions or ‘footprints’ that it leaves behind over time, from which its identity can be traced or inferred. It may be apparent in the perceptions of other people as much as one’s own, or it may be traced through, for example, material records, photographs or film.³⁵ It is also comparable to the way in which sub-atomic particles are momentarily captured and identified by the trajectories they describe in a laboratory bubble chamber³⁶ – their micro-temporal ‘biographical signatures’, which identify them, but are not the particles themselves.

On a similar basis, Eastern philosophy sees the egoic self not as a concrete and permanent entity in its own right but as a composite and dynamic phenomenon. Within Buddhism, what we think of as our inner being is merely a product of specific causal conditions, a collection of impersonal elements, driven only by the relentless (and also impersonal) force of karma to create the illusion of an individual being.³⁷ Where we think we see an enduring self, there is only a causal process of Becoming; this in turn reflects the fact that the world is in a continual

³¹ ‘Gestalt Psychology’, *Encyclopædia Britannica* (Encyclopædia Britannica Ultimate Reference Suite DVD, 2015). [Accessed 21 April 2023].

³² Hume, *Treatise*, in *Personal Identity*, ed. by Perry, pp.163-64.

³³ Eckhart Tolle, *A New Earth: Awakening To Your Life’s Purpose* (London and New York: Penguin, 2005), p.27.

³⁴ A similar point is made by Don Cupitt in *Taking Leave Of God* (London: SCM, 1980), quoted in Steven Collins, ‘Buddhism In Recent British Philosophy And Theology’, *Religious Studies*, 21:4 (1985), 475-493 (p.488) <<http://www.jstor.org/stable/20006223>> [Accessed 19 April 2023].

³⁵ Sydney Shoemaker, ‘Personal Identity And Memory’, in *Personal Identity*, ed. by Perry, p.119.

³⁶ See: ‘Bubble Chamber’, *Encyclopædia Britannica* (Encyclopædia Britannica Ultimate Reference Suite DVD, 2015). [Accessed 21 April 2023].

³⁷ Steven Collins, *Selfless Persons: Imagery And Thought In Theravada Buddhism* (London; New York; New Rochelle; Melbourne; Sydney: Cambridge University Press, 1982), p.103 and p.149. Buddhism teaches that the five elements (*skandhas* or ‘aggregate’) that form the basis of the conditioned self are themselves impersonal. These are: the physical body, self-consciousness, feeling, perception and mental dispositions - which combine to create the mind-body complex that we ordinarily recognise as a human being. See M. Hiriyanna, *Outlines Of Indian Philosophy* (Delhi: Motilal Barnarsdidass Publishers, 1993), p.139.

and ever-changing state of flux, with no permanent forms or states.³⁸ And we too – as ‘selves’ - are bound to this world of Becoming; we too are in, and part of, that state of flux: never the same from one moment to the next.³⁹

This is notably similar to Heraclitus’ well-known observation that one cannot step into the same river twice, to illustrate the paradox of constant physical change matched with sameness of identity, which some commentators interpret as an analogy for the human soul.⁴⁰ (The paradox of the river analogy is also used in relation to the dramatised discussion of sameness of personal identity in John Perry’s ‘A Dialogue On Personal Identity And Immortality’.)⁴¹ It is interesting that Buddhism uses the same analogy to illustrate the apparent continuity of material things, and the way in which an ongoing sequence of thought-moments appear to make up the ‘life stream’ of an individual person, and thus their idea of being a persisting self.⁴² In the *Diamond Sutra*, impermanence is poetically illustrated by the analogy of bubbles in a stream or foam winking in and out of existence.⁴³

Here again, the world is seen as ‘process’⁴⁴ – a dynamic interplay between events and phenomena as they rise, recede and fade away. And what we commonly apprehend as a person is, as Gethin puts it, a series of events (physical and mental) occurring in a ‘human pattern’ which is governed by causal principles like any other set of events in the physical world.⁴⁵ Our mistake is to interpret this particular causal pattern as a fixed entity, a thing in itself. What we think of as our ongoing selfhood is really just a succession of moments that occur so rapidly that we perceive them to be one continuous and stable entity.⁴⁶ And from this, one can see how tightly the idea of *no-self* is bound up with this wider Buddhist metaphysical perspective: as conditioned entities we humans are not ‘special’ or somehow exempt from impermanence.

On this basis, one can make a crucial distinction between what the self is (that which has life experiences) and *what* it experiences: between Hume’s ‘stage’ and what plays out upon it. The self is not made of events, actions, ideas or any other phenomena: it is not commensurate with the ‘contents’ of a life but is merely the

³⁸ Hiriyaana, *Outlines Of Indian Philosophy*, pp.142-44; and Robert Gethin, *The Foundations Of Buddhism* (Oxford; New York: Oxford University Press, 1998), p.155.

³⁹ Hiriyaana, *Outlines Of Indian Philosophy*, pp.141-44; and Gethin, *The Foundations Of Buddhism*, p.141.

⁴⁰ Catherine Osborne, ‘Heraclitus’, in ‘From The Beginning To Plato’, *Routledge History Of Philosophy*, Vol. 1., ed. by C. C. W. Taylor (London and New York: Routledge, 1997), p.99.

⁴¹ John Perry, *A Dialogue On Personality And Immortality* (Hackett Publishing, 1978).

⁴² Collins, *Selfless Persons*, pp.225-27.

⁴³ Barbara O’Brien, ‘A Bubble In A Stream’, *Learn Religions* (21 February 2019) <<https://www.learnreligions.com/a-bubble-in-a-stream-450098>> [Accessed 3 April 2023].

⁴⁴ Hiriyaana, *Outlines Of Indian Philosophy*, p.142.

⁴⁵ Gethin, *The Foundations Of Buddhism*, pp.141-42.

⁴⁶ Collins, *Selfless Persons*, p.234.

space in which those things occur, and through which they flow. Those things may persist as memories or be artificially recorded in some way, but *that which remembers* is not a thing in itself,

However, this is not necessarily to claim that the self *literally* does not exist in any sense at all (although some interpret the Buddhist concept of *anatta* in this way), but that it is not substantial. Instead, it is to say that it is the consciousness within the entity that perceives the world – rather than the entity that hosts that consciousness – that exists as a constant. It is always ‘the same’ in the sense that it is not defined or contained by the content of experience; the ‘I am’ is the abiding constant, regardless of the attributed identity of the experiencing entity. In the Brahminic tradition (but – crucially – not in Buddhism) this is identified as the universal soul or *Atman*.

The import of this is that the soul, the inner Self, is part of Brahman, the essence of all that is. We should not, then, conflate the pure, inner presence of *atman* with the ordinary self we take to be who we are, and which we present to the world.⁴⁷ Indeed, the distinction could hardly be more marked: ‘*Atman*, the spirit of vision is never born and never dies. Before him there was nothing and he is one for evermore. Never-born and eternal, beyond times gone or to come, he does not die when the body dies’.⁴⁸ Elsewhere, within Brahmanism, this indwelling Self is understood to be pure consciousness, the all-pervading being (*purusa*) which remains ‘aloof’ or distinct from the physical body and its processes⁴⁹ in that it cannot be contaminated, destroyed or changed.⁵⁰

My reason for dwelling on this topic is that, from an Eastern perspective, one may reasonably sidestep a number of problems and paradoxes associated with the Western notion of human personhood. If all phenomena including the manifest self are impermanent, the idea that this or that person exists in an absolute sense is no more than that – an idea. Certainly it is philosophically valid to enquire how we *recognise* that any particular thing is the same thing that it was a year ago, but if the self is not actually a *thing* but a notion, an attribution, it need not be defined by the restrictive but ordinarily accepted categories imposed by language – that is

⁴⁷ On this basis one can understand the paradoxical saying, attributed to Jesus, ‘Before Abraham was, I am’ (John 8: 48-59, KJV and ESV) – which overrides the conventional notion of the self as coincidental with this or that personal identity. (On this basis, Jesus could equally have said, ‘Before I was, I am’.) The import is, whoever I am, it is always the same, ‘I am’, regardless of time, location, or personal identity. See Paul Brunton, *The Quest Of The Overself* (London; Sydney; Auckland; Johannesburg, 1970), p.142.

⁴⁸ Katha Upanishad, in Juan Mascaro, ed., *The Upanishads: Translation From The Sanskrit* (Penguin Books, 1965), p.59.

⁴⁹ Swami Satprakashananda, *The Goal And The Way: The Vedantic Approach To Life’s Problems* (St Louis: The Vedantic Society of St Louis, 1977), pp.23-24.

⁵⁰ Ibid., pp.31-32.

to say, the conventional distinction between being 'a thing' (noun), and its being in a state of change (verb) over time.

We may continue to use conventional *identifiers* for all practical purposes, but we have no basis on which to calcify them into *identity*; we no longer need attempt to impose categorical conceptual fixity upon existential flux. The self cannot (along the lines envisaged in the kind of ingenious problematics described in Parfit's *Reasons and Persons*,⁵¹ for instance) be frozen, transported, spliced, copied, regenerated or inserted into other life-forms; it cannot be captured nor recreated – any more than one can (keeping to the 'river' analogy) capture or recreate the Nile or the Ganges by completely refilling the local town canal with the water from either of those rivers.⁵²

Moreover, if the claims made so far are true and that the apparently objective personal self is a transient mental construct with no more substance than any other phenomenon, this undermines the conventional, egoic perception of individuated human existence in general as intrinsically 'special', or more valuable and meaningful *in itself* than the existence of any other kind of sentient being;⁵³ if the apparent *personal* self exclusively attributed to humans is not a substantial, individuated and eternal soul⁵⁴ but a kind of self-generated ideational phantom that eventually disperses, like all living phenomena, all the various transient properties ('contents') that the self identifies and remembers as 'my life', and claims as evidence of its differential worth, are phantoms also.

The 'I' is A not B

By the same token – to take a connective leap - the illusion of the internal 'I', the egoic self, is implicated in the apparent fragmentation of 'I am' into a multiplicity of individual 'I am's' in public space – each one perceiving itself to be a distinct and unique phenomenon – not just a 'subject of a life', but the self-defined (A-not-B) subject of *this* particular life, this particular constellation of events. And the effect of this egoic self-demarcation is to obscure the essential and underlying

⁵¹ Derek Parfit, *Reasons And Persons* (Oxford: Clarendon Press, 1986). Notably, Parfit remarked that he felt liberated ('freed from a glass tunnel') when he embraced the implications of a reductionist view of the self – meaning, I think, that one's selfhood would become less precious in relation to that of others. (Quoted in Collins, 'Buddhism In Recent British Philosophy And Theology', p.482.)

⁵² To labour the point slightly, one can go on holiday – a package of identifiable experiences – but one cannot bring that holiday home to keep forever, or to share with other people: the holiday itself 'dies' as soon as we return. We may take photographs and videos (memories) of our experiences, but we cannot bring home the experiences themselves.

⁵³ Which implies that we should treat nonhumans as equally sacred. See Collins, 'Buddhism In Recent British Philosophy And Theology', p.486.

⁵⁴ I should stress that I am not arguing that there is no such thing as the soul, but rather that the (eternal/immortal) soul is not the same finite 'thing' as the person – i.e., it is not permanently made up of, or etched with their mundane characteristics, personality, memories, and so on.

interconnectedness of all beings or ‘interbeing’⁵⁵ which is fundamental to Eastern thought – causing one to perceive a world of discrete fragments and opposites, rather than an interwoven web of interdependent phenomena all ultimately arising from the same source.⁵⁶

This is highly relevant to the main thesis of this work, for, as Schopenhauer avers, how we act morally depends on how far we distinguish between oneself and others: and to break down this distinction facilitates morality.⁵⁷ (Equally, one could say that, before one can become moral, one must cease to be egoic.) Thus, echoing Tolle, above, Schopenhauer considers individuation to be an illusion. Moreover, he goes on to say, ‘My true inmost being subsists in every living thing, just as directly as in my own consciousness it is evidenced only to myself’;⁵⁸ and thus, ultimately, it is for us to realise the essential unity of all things, that all selves are one.⁵⁹

From a rationalistic philosophical standpoint – indeed, except in a transcendentalist context - this entire position may seem patently nonsensical: one may object that it is fundamentally obvious that I exist ‘in here’, the world is ‘out there’ and that I am not you or anybody else; and that the unique combination of verifiable events, actions, thoughts, feelings and so on, that make up my life as this person are concrete evidence of this fact.

Certainly, this objection accords with common sense. However, it also highlights the point I am seeking to make: somewhat as the ‘outer’ distortions of ideology present as incontrovertible facts, that which is most clearly obvious to the egoic self is itself a distortion of reality; it is the product of conditioned consciousness imposing itself on the phenomenal world.⁶⁰ And, despite the admitted burden of proof of such intuitions in strict analytical terms, this line of speculation is grounded in the ancient philosophical and religious systems of the East (and their esoteric derivatives in the West). Moreover, it provides the deeper context against

⁵⁵ The noted Buddhist teacher and author Thich Nhat Hanh uses this term in his book, *Peace Is Every Step: The Path Of Mindfulness In Everyday Life*, ed. by Arthur Kotler (London; Sydney; Auckland; Johannesburg: Rider, 1995), p.95.

⁵⁶ The notion of A and not-A as the foundational principle of the universe appears in various esoteric traditions. This is beyond the scope of this chapter, but I would strongly recommend Smoley’s *A Theology Of Love* for an admirably lucid exposition of the complex metaphysics derived from the basic principle of ‘self, other and relation’. See Smoley, *A Theology Of Love*, Part 1, Chapter 1, para. 21 ff.

⁵⁷ Arthur Schopenhauer, *The Basis Of Morality*, tr. by E. F. J. Payne (Jovian Press, 2017), Part IV, Chapter II, para. 2. Kindle ebook.

⁵⁸ Ibid., Part IV, Chapter II, para. 11.

⁵⁹ Ibid., Part IV, Chapter II, para. 9.

⁶⁰ Chris Niebauer references Einstein’s view that a problem cannot be solved with the same level of thinking that created it – that is to say, an (illusory) product of left-brain thought cannot be deconstructed by more left-brain thought. Niebauer, *No Self, No Problem*, Introduction, para. 21.

which to consider claims (like those made by Schopenhauer) regarding the egoic underpinnings of human nature, and the centrality of this phenomenon in our fractured and *unholy* (un-whole)⁶¹ relationship with the rest of nature.

Nonhumans and the non-egoic self

In the light of what I have said so far, an intriguing question comes to the fore: if what we interpret as the putatively unique phenomenon of human personhood is really an illusion conjured by the outworking of the *egoic* self, which is in turn the source of a wholesale misperception of the phenomenal world, what might this signify about the nature of nonhuman beings, who are apparently not subject to such misperceptions?

Here again it is worth reiterating the previous arguments that it is logically inconsistent to deny ordinary indexical self-awareness to conscious nonhuman beings – the ‘transcendental unity of apperception’⁶² – even if they cannot attribute conceptual meaning to that self or that awareness. It would be conceptually tidy and appealing to say that this is the ultimate distinction: nonhumans have selves, while humans have egos. Broadly speaking I think this is true; however, one cannot altogether avoid the possibility that even *egoic* self-consciousness may have evolved like other capacities (for otherwise it must have been installed by design), and thus we could expect this to be prefigured to a limited degree in certain other species.⁶³

In support of this possibility, we have previously noted how certain animals such as chimpanzees, pigs, dogs, and rats, seem to react in a proto-egoic way – i.e., they act upset - if they have been unfairly treated: for instance in relation to inequitable food-sharing, or if they have been cheated of their expected treat at the end of an experiment, or disfavoured in some other way. (It is also not uncommon, for instance, for dogs even to appear jealous of other pets receiving more affection, or of the attention lavished on their human family’s new baby.)

Some animals, as we have also noted, appear to act out of revenge against individual humans – thinking back to the example of the tigers who staked out the

⁶¹ The terms ‘holy’ and ‘whole’ are etymologically related (which is highly significant for the interpretation of these words in a biblical or esoteric context). Merriam-Webster’s Dictionary and Thesaurus. *Encyclopædia Britannica* (Encyclopædia Britannica Ultimate Reference Suite DVD, 2015). [Accessed 21 April 2023].

⁶² Kant’s concept referenced by Evelyn B. Pluhar, *Beyond Prejudice: The Moral Significance Of Human And Nonhuman Animals* (Durham and London: Duke University Press, 1995), p.6.

⁶³ Schopenhauer considers that both humans and nonhumans are driven by ‘egoism’ (self-interest), but that this is *systematic* in humans. However, he is using the idea of the ego in a more general sense than I am in this chapter. Schopenhauer, *The Basis Of Morality*, Part III, Chapter III, para. 1.

homes of hunters who had previously tried to kill them or their family members (see Chapter 5) or even the disgruntled crows who repeatedly mobbed certain humans who had previously scared them away, in a study noted by DeWaal.⁶⁴ We also noted that dogs and pigs can tell when they have been struck intentionally or accidentally and will react accordingly (see Chapter 3). This suggests that they *believe* that wantonly causing hurt is worse than doing it by mistake. This makes it ‘personal’ – a perception which, I suggest, requires something akin to an ego. Conversely, according to Hume, most species of animal show evidence of ‘pride and humility’ – and some enjoy the praise and touch of humans, as many can attest from their own experiences with companion animals.⁶⁵

However, while nonhumans may to a certain degree consciously experience their own internal self-states – including negative emotions against others - it seems unlikely that they have a fully *objectified* egoic self, for – as I have previously argued – they lack the capacity to run ‘explicitly entertained mental representations’,⁶⁶ which I think logically includes explicitly entertained *self*-representations. While there is evidence that some animals recognise elementary symbolic representations, including their own names, and images of themselves and others, I do not think this could extend into true conceptual ‘egoic’ identity’ without the requisite discursal framework within which this specific, abstract concept would have any meaning or currency (see Chapter 3).

For this reason, I think that nonhumans’ sense of self remains embedded in concrete things, events and imperatives arising in the natural and unmediated world. It is not evident that they have a complex, self-referential discursal framework that would enable them to abstract themselves from their environmental matrix and to re-create themselves as inhabitants of their own self-narratives as humans do. While they appear to recognise themselves as persistent subjects of what they experience, they do not stamp an egoic copyright or hallmark on their lives or mythologise the mundane events of their existence.

Even the kinds of ‘life rehearsal’ games outlined in Chapter 3 are also tethered to the ordinary givens of biological existence: they are stereotypical, purposive actions which seem to exemplify nonhumans’ absolute and functional connectedness to nature, and which contrast with the way in which humans’ egoic self-drama fractures that connectedness. For humans, even ordinary, practical

⁶⁴ J. M. Marzluff, and others, ‘Lasting Recognition Of Threatening People By Wild American Crows’, *Animal Behaviour*, 79 (2010), 699-707, referenced by Frans DeWaal, *Are We Smart Enough To Know How Smart Animals Are?* (London and New York: Granta Books, 2016), pp.71-72.

⁶⁵ David Hume, *A Treatise Of Human Nature* (Wentworth Press, 2016), Book II, Part I, Section XII, para. 4. Kindle ebook. I will refer to this again in Chapter 10.

⁶⁶ D. M. Johnson: see reference on p.102, footnote 145.

actions are self-confirming, and thus take on attributed qualities such as success, heroism, integrity, generosity and so on.

Seemingly, humans have passed a certain critical threshold to attain the capacity for unlimited re-reflexivity, which - coupled with the associated advantage of technological ingenuity and complex social organisation - reconditions the way in which we apprehend and act within the world. As egoic beings we experience the world through (and *as*) this particular and peculiar constructed self. In effect, the egoic self places humans outside of the proportionate-sufficient provisions afforded by nature; it forcibly overrides the 'respectivity' that governs the competing interests of all other natural phenomena and all other beings.

By overshadowing natural world in this way, the ego-construct provides the assumed 'authority' upon which humans then creatively modify nature in accordance with their own evolving perceptions, beliefs and capacities. And this, I think, accords with the unrestricted creative capacity of humans argued for by Marx (see Chapter 7). While nonhumans also make limited use of the natural environment, they do not override or synthesise nature in the way that humans do but conform to the governing strictures that it imposes on them. Unlike humans they do not create and manipulate self-phenomena that place them at variance with or wreak destruction upon that which gives them life and being.

This seems to indicate that humans alone have the 'higher' capacity for creating and maintaining an illusion of a substantial self and interpreting the phenomenal world and its perceptions of that world to accommodate that illusion – while nonhumans apparently remain grounded in the phenomenological givens of reality even while experiencing themselves *as* selves. For if it is true that they do not have *egoic* selves they cannot be subject to the same egoic delusions as human beings; they do not misperceive the phenomenal world, nor misapprehend their place within it.

If they were subject to such illusions, it would be reasonable to expect to see some evidence of it in their behaviour, for they would be egoically motivated to act upon them. Indeed, it would be only consistent to expect to see the nightmarish scenario of animal societies becoming dysfunctional, factionalising, and even breaking down in the same way that human societies do. By the same token, the law-like paradigm of nature (through 'respectivity') could no longer contain them: they too would become aberrant, self-serving and self-destructive; they, too, would be at war with themselves and their environment. (I will be revisiting this subject in Chapter 9.)

The self-construct as ideology

Humans appear to be unique in that we have become absorbed into the notional 'I' completely – where self-reflexivity has turned in on itself to sustain a complex concept-dependent illusion which has hardened into what we perceive as our reality. Within this arena, or ideational space, the 'I' apprehends (and to an extent, experiences) itself and the world through shared forms of discourse, symbolic representation, received ideas and beliefs. It becomes subject to the world of categories, norms and ideas, and attaches these to subjective interior phenomena in a way that appears to objectify them.⁶⁷

Thus, essentially, we learn egoic selfhood in the same way that we learn language.⁶⁸ We absorb it, and in turn we are absorbed by it. As a consequence, where ideology - in the limited sense described in the previous chapter - pertains to a distortion of specific perceptions (reified into distorted beliefs) of the phenomenal world, the apprehension of 'my world' refracted through the ego exists as a wholesale and underlying misperception of what that world *is*.⁶⁹ The lens of the self or ego cannot directly see itself: while we can infer, 'here is my self', we are submerged in that self-percept, and thus have no independent way of cross-checking that self-percept in the way that we may be able to do in relation to 'outer' perceptions.

In this situation, one can envisage the egoic self as foundational to external distortions, including those associated with ideology: the ego is internal and primary; ideology comprises the perceptions of that ego apparently manifested as specific, external phenomenal or symbolic formations. And the 'contents' of the ego, reified through societal dynamics and various forms of discourse, are ultimately what generate the synthetic 'screen', posited in Chapter 6, which eventually comes to overlay and define the nature of the physical reality which we inhabit.

Here one can draw parallels with the Buddhist concept of construction-consciousness. This is the process behind the unfolding of one's life in the temporal realm: the central idea of conditioned existence, which in turn is both a cause and a consequence of the 'I-conceit'.⁷⁰ Buddhism makes this point by the

⁶⁷ See Niebauer, *No Self, No Problem*, Chapter 1, Section 2 ('Exploration'), para. 3; and Chapter 2, Section 2 ('A Categorization Expert').

⁶⁸ See also Niebauer, Chapter 2.

⁶⁹ Again, I am outlining in naturalistic-secular terms (but concurring with) what is described in an esoteric context in Smoley's account. See Smoley, *A Theology Of Love*, Part 1, Chapter 6, paras 34-38.

⁷⁰ Collins, *Selfless Persons*, p.205.

analogy of the house-builder – where the illusory, conditioned self unwittingly builds its own ‘house’ which it will occupy for the duration of each rebirth.⁷¹

Moreover, again, if the notion of selfhood is merely a kind of construct, which is conceived and reified in terms of the realisation of (and validation in terms of) ephemeral, conceptually-dependent phenomena, the notion that our lives are inherently ‘more significant’ than those of animals is itself a self-serving illusion, which regards it as a fault in nonhumans that they are not subject to the same self-illusions that we are. In short, it seems that the thing that makes humans ‘special’ is that we have acquired the capacity to think of ourselves as such and to impose that definition on the world.

Categories and the ‘absolute Other’

To offer some slightly parenthetical but related observations here: what has been said above, I think, supports my earlier point that the ego effectively fetishises the gap between self and other; the space or outline between A and B becomes an identifiable entity which is as real as that which it helps to distinguish.⁷² An intrinsic factor in the ‘DNA’ of the egoic self is its need to ‘stand out’, to be defined against other selves; in other words, the conceptual ego needs boundaries to exist at all. And this reflects the way in which the ego works to substantiate its sphere of existence in concrete terms, as an animal might mark out its natural territory with pheromones. In this regard we impose category-concepts on the world, and we define ourselves in relation to those categories.⁷³ In particular, humans have claimed for themselves the territory of reason: we exist inside the category of rational beings, which (supposedly) distinguishes us absolutely from those beings who do not have this attribute.

On this basis, referring back to Chapter 7, nonhumans provide the readymade and absolute Other par excellence: *contra* Derrida, the animal it is patently ‘not me’. Indeed, the animal in general, tamed, exploited and redefined into ‘thinghood’ by humans over many centuries, is now perceived to be so far beneath the human that it is not even on the ‘radar’ of the ego. And here one can appreciate the import of the claim that ‘nothing is more abhorrent to a Kantian than the

⁷¹ Extract adapted from Samyutta Nikaya, Majjhima Nikaya and Dhammapadda, tr. by Nyanamoli Thera. Quoted in *Teachings Of The Buddha*, ed. by Jack Kornfield and Gil Fronsdal (Shambhala Publications, 1996), pp.24-25.

⁷² It may be recalled that in Chapter 3, I cited evidence that certain other species – pigeons and corvids, for instance – understand and can use categories in relation to types of objects, colours, shapes and so on. However, I am not suggesting that this is evidence that those creatures also have egoic selves; rather, I am saying that the human egoic self fetishises those categories in ways that reflect its own delusional and alienated state. Contrastingly, nonhumans can ‘be’ selves and ‘see’ categories and yet remain egoically innocent.

⁷³ Here again, Niebauer sees the mapping of reality through categories as an aspect of left-brain functioning. Niebauer, *No Self, No Problem*, Chapter 2, Section 2, para. 1.

reminder that humans are like other kinds of animals',⁷⁴ for this reawakens the ego's need to reassert its boundaries.

This also links into Carol Adams' discussion of reason as the 'masculine privilege' which thinks the world is made out of ideas.⁷⁵ On this basis, we commonly define ourselves against one another and against the world of nature. Through categorial constructs we 'cut up' the world both literally and metaphorically in line with those definitions (see Chapter 7). But this is to forget that we are using a two-edged blade, which also 'cuts off' the categorising self from its primal and ultimate connection with that world, like sawing off the branch of a tree that one is sitting on. (I will be taking this point up again in Chapter 9.)

Individuation and the fearful self

Here one may ask (in view of its negative aspects) why the egoic self would have manifested in the first place. If it did evolve, what purpose would it serve? To invoke evolution here seems somewhat glib and teleological, but one possibility is that enhanced reflexivity confers something akin to 'administrator' privileges in relation to computer devices. This would represent a quantum step from *reactive* evolution to *proactive* evolution: i.e., the advent of a self-programming entity which, unlike other species, is able consciously to adjust itself to the vagaries of the natural environment (and vice versa), and thus able to protect itself against extinction.

A related possibility is that re-reflexivity confers not just enhanced self-recognition but a correspondingly magnified sense of self-value, which motivates us to protect at all costs the innovative 'biological technology' with which humans are endowed, for it is evolutionarily expensive to replace. This would be a healthy and rational function of the reflexive self, not essentially different from the self-preservation instinct in sentient nonhumans. However, it seems that in human beings this sensible self-guardianship has gone far beyond a healthy, *impersonal* respect for our biological wellbeing to become a dysfunctional fixation on the curation of the egoic self-concept that we identify as the core of our being, our life itself.

⁷⁴ Theodor Adorno, *Beethoven: The Philosophy Of Music*, trans. Edmund Jephcott (Stanford, CA: Stanford University Press, 1998), referenced in Eduardo Mendieta, 'Animal Is To Kantianism As Jew Is To Fascism: Adorno's Bestiary', in *Critical Theory And Animal Liberation*, ed. by John Sanbonmatsu (Lanham; Boulder; New York; Toronto; Plymouth, UK: Rowman & Littlefield Publishers, Inc, 2011), p.148. Mendieta also cites Derrida's commentary on Horkheimer, 'Fichus', in Jacques Derrida, *Paper Machine*, trans. by Rachel Bowlby (Stanford, CA: Stanford University Press, 2005), in which Derrida links Kant to fascism and potentially to 20th century animal and environmental concerns.

⁷⁵ Carol J. Adams, 'After MacKinnon: Sexual Inequality In The Animal Movement', in *Critical Theory*, ed. by Sanbonmatsu, p.261.

This could be compared to the situation of a person who has acquired conspicuous wealth. While this opens up many more choices and opportunities in their own life, they must now take extraordinary measures to protect it. Again, this is rational – even nonhumans hoard and hide food from conspecifics - but it becomes irrational if that wealth takes on the fetishised status of ‘my treasure’, which is then possessively defended as if it were not just inherently valuable as a *means*, but objectively valuable as an end in itself, and indeed more valuable than the ends that it was originally provided to serve.

In a similar vein, in both the Vedantic and Buddhist traditions, the egoic ‘little self’ is deeply problematic, but for different reasons. For the Vedantic tradition, the problem is that this erroneous, ingrained sense of self-identity prevents us from seeing, or rather *being* the true Self. Within Buddhism, any notion of self is ultimately just an illusion, which arises from *avidya* and leads to the ‘I-conceit’. This in turn leads inevitably to the notions of ‘me’ and ‘mine’, which foster craving (*trṣṇā*) and attachment (*upādāna*). And this is the proprietorial delusion shared by most of humanity, which underlies all suffering and all conflict in the world.⁷⁶ This echoes Hume’s prescient idea that ‘self-love’ is the source of all injustice and violence and must be corrected before vice can be corrected.⁷⁷

Thus, the egoic self appears to be a real entity which must be defended at all costs; and this is compounded by the fact that virtually all other humans are also defending illusory selves. And if all selves perceive all others as a potential threat, they create and are caught up in a vicious circle – particularly in terms of competing interests arising from other egoic selves - and so exist in a continual background state of fear.⁷⁸

This then links into the problematic issue of managing competing needs and wants, and rights – the continual tension between what is due to self and what is due to the other: how we each (or all) get what we believe is due to us, and how we decide what is due to us in the first place (see Chapters 1 and 5). Here, one can – to take a long leap - readily recognise in embryonic form the basis of Hobbes’ ‘war of all against all’, which provides the rationale for the concomitant, multilateral ‘solution’ of the social contract.⁷⁹

⁷⁶ Gethin, *Foundations Of Buddhism*, p.146.

⁷⁷ David Hume, *A Treatise Of Human Nature* (Wentworth Press, 2016), Book III, Part II, Section I, para. 10. Kindle ebook.

⁷⁸ As Smoley puts it (in interpreting the teachings of *A Course In Miracles*), ‘The ego is motivated by fear – or rather the ego *is* fear’. Smoley, *A Theology Of Love*, Part 1, Chapter 6, para. 42; and Part 2, Chapter 8, para. 20.

⁷⁹ Thomas Hobbes, *Leviathan*, ed. By J. C. A. Gaskin (Oxford and New York: Oxford University Press) Part 1, Chapter 13, p.84.

Nevertheless, while humans remain egoic, they cannot escape the notion that what is due to the self is intrinsically more important than what is due to the other. And this reflects Schopenhauer's claim that egoic self-interest is so powerful that one would willingly sacrifice the whole world for oneself.⁸⁰ Indeed, he says, good conduct is contrary to the most basic human impulse of all. Any action to help others is seen as a kind of miracle, an astounding event.⁸¹ One can then see from this how the ego would also feel itself at risk by offering unilateral kindness, rather than doing special favours (which can be called in), for kindness implies an acceptance of equality, which the ego cannot accommodate: indeed, to the ego, it is a form of self-harm.

In this situation, we seem to be straightjacketed by this prioritisation of the egoic self and what it sees as its rightful domain and property over the corresponding rights of others: not only to distinguish itself but to ascribe differential value on the basis of me and not me (see Chapter 1). However, the 'I' can prioritise and assert its own rights only to the degree that it can exhibit power. Clearly some 'I's can manipulate and override others in order to take more than they are due (see Chapter 5): they can magnify themselves to the extent of assuming entirely disproportionate rights over even a multiplicity of others. Indeed, the sphere of expansion of the ego is virtually unlimited.⁸²

In the situation outlined above, anything which might undermine the egoic self is perceived as an actual threat. In an ego-dependent condition, the greater the perceived gap between self and other, the greater that sense of threat. This is magnified where others are perceived as depriving oneself or enjoying more benefits than oneself. The mere existence of apparently advantaged, privileged, or more powerful individuals represents a clear and present danger, even if the self is not directly affected. Thus, the egoic self may be frightened or enraged by the mere idea of attack, just as it may be frightened or enraged by realistic narrative constructs referred to earlier.

In this respect, the egoic self is not merely dysfunctional individually, but toxic, in that it threatens the good of the wider collective also; and this, I think, is the root of humans' problematic, antagonistic relationship with other humans, nonhumans, and the wider world. While being a member of a future-proof species is evolutionarily advantageous, it seems that, in seeking to protect our 'treasure' individually against, and to control all that is outside of us we experience ourselves as atomised or fragmental entities existing in a state of

⁸⁰ Schopenhauer, *The Basis Of Morality*, Part III, Chapter III, para. 1.

⁸¹ Ibid., Part III, Chapter III, para. 2.

⁸² Ibid., Part III, Chapter III. para. 1.

antagonism with others: as isolated existential 'units' separated from other beings, and ultimately even from the general matrix of nature itself.

Nevertheless, whatever exclusive self-perceptions we may entertain, we remain flesh-and-blood beings: we cannot in reality exist apart from the primal matrix from which we originated, and which provides our life-support - nor from the necessary social relations through which we manage the world to meet our common needs. This then leads to a paradox: on the one hand, we seek distinction from the world through egoic identity; but at some level – as vulnerable, socially-dependent animals⁸³ - we also seek integration into the world. (For if we do not, it continues to exist as a threat.) From this, it seems that humans are caught up in an insoluble double-bind: to survive in the world *as* the egoic self, one must remain distinct from it; but to be integrated into it as a mere self among selves is to lose oneself, literally.

In response, some strategy is needed to offset the perceived threat, to assure the preservation of (egoic) self-interest against 'illegitimate' other-interest. And in modern democracies, we find compromise in coexistence in a state of tension (at best, a condition of hypostasis) with others, as exemplified by the Hobbesian model of the social contract. This apparent solution (which is really a kind of workaround) enables our self-distinction to co-exist among others in whom we seem to recognise aspects of our own identity against a shared set of criteria and norms.

From the state of fear to the fascist State

The contractarian model (see Chapter 5 in relation to justice) provides a pragmatic and broadly workable environment for humans to coexist and manage their shared practical interests, their access to common goods in natural law terms. However, it does not necessarily assuage the deeper needs of the egoic self to remain distinct, hence the kinds of disparities that creep into even seemingly ideal political constitutions, like the one portrayed in Orwell's *Animal Farm*. Equality and fairness cannot overcome (and indeed may exacerbate) the perceived threat to its identity: they threaten the egoic self with anonymisation, which it interprets as a form of annihilation.

In response, the self seeks to use whatever leverage it has to make the Other seem categorically and objectively less than itself. And with this impulse there remains an abiding simple notion that if I take the initiative in de-legitimising the Other, I will be decisively protected against whatever threat they may represent.

⁸³ See Alasdair MacIntyre, *Dependent Rational Animals: Why Human Beings Need The Virtues* (London: Duckworth, 2009).

This principle applies whether that Other is another tribe, race, gender, class, team, or any other category. This may present in various ways, such as conspicuous self-aggrandisement (through status symbols, for instance) or negative definitions of the Other, for instance through snobbery, slurs and insults.

However, given that human nature includes a variable disposition to violence (as discussed in Chapter 6) this may often manifest as some form of direct assault. And this is implicit in, for instance, hate crimes and other planned and unprovoked attacks on harmless or defenceless strangers, even those who are pleading for mercy or trying to escape.⁸⁴ While the attacker may try to rationalise the attack as anticipatory self-defence against some kind of perceived or imagined threat or insult,⁸⁵ the underlying reason is that the victim is, by definition, other than them. To the ego, their 'wrongbeing' (see Chapter 1) is sufficient in itself.

There is a strange anomaly here, however, which begs the question of why the strong also seek to subjugate the obviously weak, who cannot hurt them, as well as worthy opponents. I would suggest that the ego feels threatened even by the very idea of weakness or defectiveness, in others.⁸⁶ To tolerate the weak is to make the imperfect on par with oneself. Indeed, it negates the criteria which form the very basis upon which the egoic self maintains its identity. Weakness is thus seen as a kind of affront – and thus warrants attack.

However, to persecute weaker beings to prove oneself stronger is egoically unsatisfactory, for to attack weakness is no proof of strength but its opposite. Nevertheless, the attacker(s) may still repeatedly seek out further victims: like a kind of substance addiction, the ego needs to obtain the temporary but ultimately unsatisfactory self-validation derived from their suffering, defeat and humiliation. (And this, I think, applies whether the victim is human or nonhuman. And in the latter case, the assault is often disguised as 'sport' of some kind.)

The foregoing general remarks are offered to re-open the brief discussion of fascism in Chapter 7, and in particular the question of whether fascism may have some kind of underlying primal dimension. This is not, I stress, to suggest that humans are inherently disposed to fascistic values or norms; nor am I suggesting that all forms of oppression are necessarily fascistic.⁸⁷ (For some kinds of

⁸⁴ The subject of mercy was discussed extensively in Chapter 4.

⁸⁵ According to the teachings of ACIM, the ego perceives attack as self-defence. See Smoley, *A Theology Of Love*, Part 1, Chapter 6, para. 50.

⁸⁶ Remarkably, similar behaviour is sometimes exhibited by chimpanzees, who have been observed to attack physically disabled conspecifics within their own colony. This, I think, compounds Richard Wrangham's comparison of human (male) violence with behaviours observed in the Great Apes, as referenced in Chapter 6.

⁸⁷ Interestingly, Umberto Eco identifies the 14 typical features of what he calls Ur-Fascism or 'Eternal Fascism', which are not necessarily all present in any one particular form of it, such as Nazism. See 'Umberto Eco Makes a List Of The 14 Common Features Of Fascism', *Open Culture*

oppression are instrumental rather than egoic.)⁸⁸ Rather, I am considering that political phenomenon as a particular and extreme manifestation of delusions created by the anxiety-laden ego reflected in the collective pseudo-identity of a group, as a people, as a nation.⁸⁹

It seems plausible that, within the egoic mind-set, fascism offers an ingenious solution to the existential anxiety created by the ego itself: for its strategy is to enable the individual egoic self to be subsumed into the collective – identified as the state – and similarly to absorb all other legitimate selves to that state, such that they are both *co-equal* with other legitimate selves and reified into the state.

In this way, the egoic self is not diminished but realised through collective self-resemblance or ‘co-identity’: the idolised self-concept can be both recognised and faithfully reflected in the other; selves conform to an accepted template in order to enjoy special privileges as legitimate members of the collective. Then, ‘the story of me’ truly becomes ‘the story of us’, and then ‘the story of our nation’,⁹⁰ as if these things were real and substantial entities – which, like the individual ego, must vanquish the Other at all costs.

However, the key to this is the identification of a common and absolute enemy that threatens that self-collective. For this provides fear with a clear and present target, so to speak, so threats are no longer diffused and ambiguous. Thus, just as the *I* is sharply defined against the Other, within the fascistic state (and, indeed, State) the *We* is sharply defined against the collective *They*. Here, then, is a kind of security: the idealised manifestation of the exclusive, ring-fenced and self-serving ‘Kingdom of Friends’;⁹¹ within its domain I see myself reflected in the Other, at last; if defend them, I defend myself; if I attack them, I attack myself.

(22 November 2016) <<https://www.openculture.com/2016/11/umberto-eco-makes-a-list-of-the-14-common-features-of-fascism.html>> [Accessed 21 April 2023].

⁸⁸ For instance, the slave trade would seem to be more properly defined as an instrumental evil rather than fascistic, and I think it has this in common with animal exploitation in general. Certainly (see Sanbonmatsu, *Critical Theory*, p.10), animal exploitation also bears the hallmarks of fascistic *practices* and attitudes, but I do not think it is directly driven by the egoic imperatives that I have sought to outline in this chapter, for animals are not a *threat* but a resource. Conceivably, animal exploitation contains elements of both of these forms of evil, but I think this issue entails a separate and extensive tangent of argument than I can do justice to in this space. See Marjorie Spiegel, *The Dreaded Comparison: Human And Animal Slavery* (New York: Mirror Books, 1996).

⁸⁹ See Eckhart Tolle, *A New Earth: Awakening To Your Life's Purpose* (London and New York, Penguin, 2005), p.120.

⁹⁰ Ibid., p.120.

⁹¹ The restrictive and conditional reciprocity involved in Kant's ‘Kingdom of Ends’ suggests that this pun is apposite here.

Notably, Theodor Adorno and Max Horkheimer (both Kantians themselves) in ‘*Dialectic Of Enlightenment*’, trans. John Cumming (New York: Continuum, 1940) made connections between Kantian idealism and Nazi totalitarianism. Referenced in Christina Gerhardt, ‘Thinking With: Animals In Schopenhauer, Horkheimer, and Adorno’, in *Critical Theory*, ed. by Sanbonmatsu, p.140.

In this way, society is strong when all its members are manifestly alike; the self then participates in that strength when it sees itself both reflected and magnified in the overarching form of the state. However, the state does not exist as a true collective (of diverse, freely-consenting, mutually respecting individuals) but is really a kind of homogenous ego; a multiplication of self. It is this that entails the pseudo-religious, deification of the state within fascism:⁹² it has an identity and superhuman potency, like a god; and members of that state experience themselves, fictitiously, as equal vessels of that godhead – the ego magnified.

Nevertheless, one can also see behind the violence and ruthlessness of fascism a tacit recognition of the vulnerability and natural fragility of any single entity standing alone against the world. This is implicit in the foundational symbol of the *fascis* – the ceremonial bundle of sticks or rods carried by the Lictors in ancient Rome, from which the term fascism was derived. (Indeed, one could correctly, if somewhat over-literally, translate fascism as ‘bundleism’.) In this motif, the sticks which were easily broken individually, were made virtually unbreakable by being bundled together; in addition to which, the axe bound up in the middle of the sticks symbolised the power/potency of worldly authority in the midst of them.⁹³

Even this, however, could conceivably put the ego at risk. If I am to be bundled together with others, it is crucial that I can trust that they really are just like me. And from this one can understand the rationale underlying the dogmatic insistence on similarity (stereotypical co-identity) among citizens within fascist states, the obsessive insistence on uniformity, physical typology, cultural lineage, and so on, which was (in tandem with overt racist beliefs) an integral part of Nazi ideology. This extended into a neurotic concern with the minutiae of arbitrary physical and behavioural criteria, fitness, health and beauty, and a concomitant hatred of apparent failings of nature in creating imperfect human forms – all of which fed into associated measures to cull those who exhibited such failings, and to breed out such deficiencies in future.⁹⁴

⁹² This does not appear on Eco’s list, above. However, the concept appears elsewhere. See, for instance, Christopher Dawson, ‘Religion And The Modern State’, *Christopher Dawson, Historian of Religion And Culture* (2013) <<https://www.christopherdawson.org.uk/works/politics-society/religion-and-the-modern-state/>> [Accessed 25 April 2023].

⁹³ For an interesting interpretation of the symbolism involved, see KorbenDallas (KD), ‘Lictors And Roman Fasces Weapons’, *SH Stolen History* (14 November 2020) <<https://www.stolenhistory.org/articles/lictors-and-roman-fasces-weapons-grand-deception.83/>> [Accessed 15 April 2023].

⁹⁴ Certain aspects of this seem to persist in modern times, for instance, the pursuit of acquired norms associated with perfection of the physical form in modern body culture – even to the extent of radical or dangerous cosmetic surgery. This could be seen as a kind of voluntary auto-eugenesis in pursuit of an ideal of perfected uniformity measured against arbitrarily enforced criteria, in which the ideational violence of self-and-other definition is realised literally in flesh and blood.

Within this arena, the self assumes the right to *categorise*, to define the worth of those who do not have power and to use power act on those definitions: it means that, if I define you as being inferior to me, then that is not my personal opinion but an objective fact. Accordingly, the Nazis sought to demonstrate that their avowedly racist beliefs and objectives were rational and scientific: to prove that the Jews were *actually* inferior in an objective, categorical sense. For the Nazis, the Jews, contradictorily, were condemned both for being an alleged threat (financially and culturally) and yet also supposedly lesser beings than their persecutors, whose inferior status (*'untermensch'*) warranted their destruction.⁹⁵

Here, it is worth considering how any sense of compassion was rejected, and cold-blooded 'hardness' (hatred by another name) was espoused as a kind of perverted knightly virtue in the training of members of the Waffen SS tasked with committing industrialised murder.⁹⁶ And this was deliberately cultivated to enable recruits to kill innocent others at will, in cold blood, with no compunction whatsoever: to *use* or sublimate hatred as a kind of tool or energy, but not to degrade oneself by feeling it as a personal emotion.⁹⁷ (In certain respects this bears comparison with the observations concerning the emotional detachment necessitated by animal slaughter in Chapter 7.) But here, behind the façade of reason and rhetoric, one can nevertheless detect the fearful self at work, sustained by a fellowship of similarity, dignified by the language of science, and protected by political power.

I have dwelt on the specific issue of fascism here somewhat reluctantly, for it should not detract from the more general observations and intuitions in the rest of the chapter. That is to say, essentially, that while we exist as egoically-conditioned, apparently discrete and self-sufficient entities, we are inevitably estranged from the world, for we commonly experience ourselves as categorically distinct from it and – in place of the 'respective' relationship with it that governs the lives and interests of other species - we project and impose our manufactured and arbitrary selfhood upon it.

This spills over into our surgical and genetic manipulation of animal bodies as well, to conform to a certain preferred appearance against arbitrary human-created criteria – even (ironically) breeding into them deformities that compromise their health or may even kill them.

⁹⁵ This appears on Eco's list – which acknowledges that fascist principles need not be self-consistent. See Eco, '14 Features Of Fascism'.

⁹⁶ For a very useful overview of SS training and beliefs, see Mathieu Schwartz (dir.), 'The SS: A Barbaric State' [Film], TSVP; RMC Decouverte (2019). See also 'Ideology Of The SS', *Wikipedia*, <https://en.wikipedia.org/wiki/Ideology_of_the_SS> [Accessed 21 April 2023].

Hatred could (I am suggesting) be identified as the public face of fear in response to a perceived threat. Referring again to the esoteric teachings within ACIM, fear is the polar opposite to love (which I interpret to mean in the biblical sense of *agape*). See Smoley, *A Theology Of Love*, Part 2, Chapter 13.

⁹⁷ See Schwartz (dir.), 'The SS: A Barbaric State'.

However, it seems essential to include it because, on a wider footing, the psychic, egoic underpinnings of fascism could be regarded as the culmination of the key elements of the discussion leading up to it. As Smoley remarks (again in an esoteric context), 'In its pure form, the ego is utter isolation, utter alienation, utter hatred'.⁹⁸ Thus, rather than presenting the egoic self as an interesting, but ultimately neutral aspect of the human psyche, I am contending that it is the central culprit in human dysfunctionality, up to and including its most heinous crimes against other beings and nature itself. To concur with Schopenhauer once more, while we are egoic, we cannot be moral.

In short, the egoic self is manifested collectively through fascism (but not exclusively so). Here, it could be characterised as the negation of 'respectivity', which would obtain in a truly collective and organic relationship with the natural world itself, as it obtains in the nature of all other living beings. In this sense, it exists as the inversion of the very 'holiness' that Kant claims exclusively for human beings (see Chapter 6): that is to say, in the egoic state, humans cannot be holy, for they are not 'whole', but are severed and alienated from the world. Thus, the collective ego, manifested through the fascistic mind, fragments and negates the profound natural inter-connectedness expressed in, 'I am the vine and you are the branches',⁹⁹ which envisages the branches remaining organically connected to the primal 'I Am' life force of nature (or God), not severed from it (individuated) and artificially bound together as a uniform bundle of dead sticks.

As such, fascism embodies the enforced unity of dead and artificially uniform things, contained by arbitrary categories and 'masculinist' worldly power, symbolised by the axe amid the bundle. Ultimately, it represents a form of egoic pseudo-unity, of absolute community based not on compassion, common humanity or similar manifestations of selflessness, but on a focused form of rationalistic and ultimately destructive self-interest: it represents the final conquest of all that is not 'us' – that is, the ever-present threat of the Other, in whatever form it presents itself.

⁹⁸ See Smoley, *A Theology Of Love*, Part 2, Chapter 13, para. 8.

⁹⁹ John, 15:5 NEB, *The New English Bible*, illustrated by Horace Knowles (The Bible Societies in association with Oxford University Press and Cambridge University Press, 1972), p.826.

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Chapter 9

'The Fall' as estrangement: the objectification of nature, radical evil, and the new ethics of sympathy

We have previously considered the theme of alienation from various viewpoints, linking together factors such as high cognition, reflexive self-awareness, conflicting societal norms, and self-deception. Essentially, it seems, we are - collectively and individually - caught up in a complex ideological *gestalt* which underpins our false and destructive relationship with the world, with nature itself, and in particular with nonhuman beings. Of necessity, we interact superficially with nature, largely on our own terms, but (by that same token) as outsiders. We are umbilically tethered to it but not rooted within it.

However, various notable commentators have moved beyond a detached, societal-dynamic view of this state of alienation – to ask, in frank diagnostic terms, what, specifically, is wrong with human beings in themselves? In a similar vein, I am now considering how this alienation may have arisen and when: whether it has a natural history and even a primal cause.

On the evidence of humans' history of dysfunctional behaviour, there appears to be, as Korsgaard says (citing Freud and Nietzsche), something damaged in the human psyche, suggesting some deep break with nature.¹ Certainly it is evident that humans possess highly advanced cognitive capabilities and creative potential beyond anything seen in other species. But what makes us 'exceptional' may, ironically, be the very thing that creates and traps us in the harmful and destructive circumstances in which we find ourselves.

Some have gone as far as to claim that our species has undergone some kind of 'Fall' event, whose ramifications still impact on us today – an idea which I will be giving serious consideration in this chapter. Part of this question is whether being 'fallen' makes humans hapless subjects of some kind of inherited congenital flaw or condition, or whether they can act for good in spite of it. And in seeking to answer this question I will be looking at ideas such as radical eco-feminist theory, the care ethic, and sympathy theory, which I think offer a potentially revolutionary perspective within animal ethics.

¹ Christine M. Korsgaard, 'Morality And The Distinctiveness Of Human Action' in Frans DeWaal, *Primates And Philosophers: How Morality Evolved*, ed. by Stephen Macedo and Josiah Ober (Princeton and Oxford: Princeton University Press, 2006), p.104.

Humans and 'the Fall' as history

The key problematic of this chapter is captured eloquently by Erich Fromm, who considers that the emergence of self-awareness, reason and imagination, 'has made man into an anomaly, into the freak of the universe. [...] He is set apart while being a part; he is homeless, yet chained to the home he shares with all other creatures'.² And to this he adds, 'In beholding [these creatures] we catch a glimpse of where and what we unconsciously long to be'.³

While it is commonly taken as beyond debate that humans are categorically superior to other animals, some thinkers (Korsgaard again cites Freud and Nietzsche) see humans as a kind of aberration, and 'something unnatural and twisted' in the human psyche.⁴ Even our moral systems, it has been suggested, might indicate that we are 'spiritual intellects, fallen into a world of desire and feeling that is fundamentally alien to us'.⁵

More commonly, in the light of thinkers such as Sartre, Marx, Durkheim and Weber, we describe this in impersonal, technical terms such as alienation, *anomie*,⁶ estrangement. But it is valid to ask whether it is an inherently modern phenomenon, emerging from complex, stratified forms of social organisation, or one which has always existed in some latent form and, conversely, creates the social formations in which it becomes manifest.

In relation to this aspect of the discussion, credit is due to the psychologist and author Steve Taylor who, in seeking to explain the psychological dysfunction (or 'collective psychosis') of modern humans, looks to an historical moment, about 6000 years ago, when, driven by environmental pressures, human social groups (initially in the Middle East and Asia), began to undergo a kind of collective cultural shift, whose impact is still clearly apparent in modern societies.⁷

Taylor's premise (greatly simplified) is that this event (Taylor himself describes it as 'the Fall') involved the demise of earlier matristic cultures characterised by generally peaceable, democratic cooperation and harmony with nature, and the subsequent emergence of more sophisticated forms of civilisation, which - while widely

² Erich Fromm, *The Sane Society* (New York and Toronto: Rinehart and Company, 1955) quoted in Zipporah Weisberg, 'Animal Repression: Speciesism As Pathology', in *Critical Theory And Animal Liberation*, ed. by John Sanbonmatsu (Lanham; Boulder; New York; Toronto; Plymouth, UK: Rowman & Littlefield Publishers, Inc, 2011), pp.185-86.

³ Ibid., p.186.

⁴ Christine M. Korsgaard, *Fellow Creatures: Our Obligations To The Other Animals* (Oxford: Oxford University Press, 2018), p.237.

⁵ Stephen R. L. Clark, *The Nature Of The Beast: Are Animals Moral?* (Oxford and New York: Oxford University Press, 1984), p.108.

⁶ Literally, 'normlessness' or 'lawlessness'. 'Anomie', *Merriam-Webster.com Dictionary* <<https://www.merriam-webster.com/dictionary/anomie>> [Accessed 22 Aug. 2023].

⁷ Steve Taylor, *The Fall: The Insanity Of The Ego In Human History And The Dawning Of A New Era* (Winchester, UK and Washington, USA: iff Books, 2005), Introduction, iii-iv.

beneficial - 'gave rise to social pathologies such as warfare, male domination and social inequality'. This led to the appearance of a new type of human being, characterised by 'a more defined sense of individuality and a new way of experiencing life' – a phenomenon which culminated in a virtual 'ego explosion'.⁸

Against these criteria, some cultures acquired more pronounced Fall characteristics than others: thus, more developed Westernised cultures exhibit more social-pathological traits than, for instance, the few primal and aboriginal cultures that still exist in the world, which tend to retain the more nature-sympathetic and egalitarian traits and values of the pre-Fall state of humanity.⁹ (This seems to suggest that the Fall is an ongoing process, with more of its characteristics emerging with the evolution of modern Westernised societies.)

Taylor provides a highly plausible and persuasive thesis, supported by detailed historical, anthropological, cultural and psychological evidence, to which I cannot do justice here. However, I differ in my own contention that the Fall was marked by the psychic disidentification and detachment from the animal kingdom and the concomitant objectification and violent misuse of animals themselves. This takes us much further back into remote human prehistory, with the advent of hunting, and possibly even before the arrival of *homo sapiens*.¹⁰ That is to say, the initial phase of 'infection' rather than the onset of the full-blown fallen condition.

This latter point agrees with the traditional biblical account of the Fall, in which humans' estrangement from their original matrix became apparent in the first samples of the species, rather than after many tens of thousands of years. And while many would disregard the Fall myth as a mere fiction with no claim on history or science, its author-compilers themselves evidently believed that, in some real sense, *this happened*. They were seeking to communicate something about the origin of humans' radically dysfunctional presence in the world: not just that we are alienated (fallen), but how this came about and why it should matter to us today.

This is not to suggest that the stories be taken as literal historical accounts, nor that one need accept the associated religious beliefs,¹¹ but that (in the spirit of experiment) we make certain allowances to try to appreciate what they purport to represent. If one can temporarily put aside their more obvious anomalies and

⁸ Taylor, *The Fall*, Introduction, iii-iv; and Foreword by Dr Stanley Krippner, i-ii.

⁹ Ibid.

¹⁰ There is also archaeological evidence (still controversial) to suggest that some hominids may even have practised cannibalism in remote prehistory. See, for instance, Bruce Bower, 'Fossil Marks Suggest Hominids Butchered One Another Around 1.45 Million Years Ago', *Science News* <<https://www.sciencenews.org/article/fossil-hominids-stone-age-cannibalism>> [Accessed 20 August, 2023].

¹¹ I will be referring necessarily to God and religious concepts in the ensuing discussion simply in keeping with narrative and terminological conventions: this is not arguing for (or against) the existence of God, nor that one needs to be a theist in order to accept this thesis in principle.

anachronisms, they can be approached simply as propositions, ideas – compressed into drama and metaphor, but no less valid than other forms of comparable speculative intuition. This is the line that I am taking in relation to the speculative hypotheses that follow.

Original Sin?

Most will be familiar with the basic scenario of the Eden story, in which the first man and woman, tempted by a serpent,¹² ate fruit from the Tree of Knowledge, which somehow led to their expulsion from the Garden. In traditional religious doctrine, this has been portrayed as a result of their disobedience against God's express instructions; but it is apparent from the narrative itself that their actions themselves initiated some fundamental disruption to the natural order, which could not be reversed – even by God.

In a traditional religious framework, this deviation from the intent of the Creator corresponds to Original Sin. Understandably, many find this an objectionable concept, with its connotation of inherited guilt concerning some alleged and obscure historical offence. However, divested of its damning doctrinal connotations, 'sin' (a term derived from archery) literally means to miss the mark, or fall short of a target.¹³ In that sense, it would simply denote 'falling short' (of apparent potential); to perform below the target capacity (or *telos*) designed by nature.

In the terms of the myth, I take this to mean that whatever manifest characteristic sparked off *homo sapiens'* state of exile from nature was originally, and remains, intrinsic to the human condition. This is not to say that we are individually at fault for this, but rather that we are akin to 'carriers' of an inherited genetic disorder or trait that manifests as a deficiency or disorder in all future generations of the species (but not necessarily in all individuals). But what might be the nature of that trait or deficiency?

According to the narrative, eating the forbidden fruit 'opened the eyes' of the couple so they could see as God sees.¹⁴ A reasonable interpretation of this is as a metaphor for the marked and exponential expansion of humans' cognitive

¹² In ancient times, the Serpent had a number of symbolic meanings, including knowledge and transformation. For a useful overview, see Dani Rhys, 'Serpent Symbolism And Meaning', *Symbolsage* (September 2020) <<https://symbolsage.com/serpents-meaning-and-symbolism>> [Accessed 20 August 2023].

¹³ Various faith-based sources cover the relevant etymology here. See, for example, Jack Hendren, 'What Is Sin?', *Life, Hope & Truth* <<https://lifehopeandtruth.com/change/sin/what-is-sin/>> [Accessed 18 August 2023].

¹⁴ Genesis 3:4-7, NEB. *The New English Bible*, with illustrations by Horace Knowles (The Bible Societies in association with Oxford University Press and Cambridge University Press, 1972).

capacity and capability, which we now explain in terms of evolutionary biology. The effect of this was to override the reliable 'auto-pilot' of nature; and while this may have given the human species an enormous adaptational advantage over all other animals, it came at a high cost.

It is significant that the fruit from the Tree of Knowledge came with the stark health warning, 'you will surely die',¹⁵ as if it were toxic or some kind of virus. (The fact that the characters involved obviously did not die suggests that this warning was meant more generally.) Thus, the prohibition could be seen as an attempt to shield naïve early humans from 'the wrong sort of knowledge' (or, more accurately, the wrong sort of knowing). But what sort of knowledge, or knowing, could be so terrible and dangerous that it could actually kill us?

Some thinkers see the Fall as the fall into duality – the world of opposites ('good and evil')¹⁶ and distinctions which feeds into the use of dualistic concepts. Thus, the story could be interpreted as a pre-scientific metaphor specifically for the advent of left-brain, categorical, rationalistic thinking (see Chapter 8). In ordinary terms, this is our capacity for reason. And reason entails objectivity: that is, it enables (and requires) us to stand apart from the thing being reasoned about.

Here I would contend that this conceptual objectivity ultimately resolves into *objectification* of the phenomenal world: it separates us from it; it also objectifies the self that objectifies, which gives rise to our capacity for re-reflexivity (see Chapter 3). Thus, our highest faculty may be at the heart of our distorted and alienated relationship with the world; where 'enlightened reason [places] the human animal outside of nature'.¹⁷ However, I would distinguish between reasoning as an invaluable computational tool (which we may share to a degree with some nonhumans) and *Reason* as wholesale mode of apprehension and apperception of the world. That is, not merely a peculiarly enhanced cognitive ability but a notional transcendent capacity (conventionally associated with the soul) that categorically sets us above all other life-forms.

And from this I would argue that it is the quasi-divine capacity of *Reason* in that possessive, egoic sense which is intrinsic to the fallen (alienated) state (thinking again of the Kantian distinction from 'holiness'): it is, I think, the executive mechanism of separation from nature. Through the lens of the egoic self,

¹⁵ Genesis 2:16, NEB.

¹⁶ See, for example, Richard Smoley, *Inner Christianity: A Guide To The Esoteric Tradition* (Boston and London: Shambhala Publications, 2002), p.58. See also Joel S. Goldsmith, *A Parenthesis In Eternity* (New York: HarperCollins Publishers, 1963), pp.114-16 and Chapter XXVII ('Living Above The Pairs Of Opposites').

¹⁷ Theodor Adorno and Max Horkheimer, *Dialectic Of Enlightenment: Philosophical Fragments* (Stanford, CA: Stanford University Press, 2007), cited by Aaron Bell, 'The Dialectic Of Anthropomorphism', in *Critical Theory*, ed. by Sanbonmatsu, p.164.

objectivity, transformed into *objectification*, leads to the creation of a fragmentary shadow-environment, which in turn makes the underlying, primal matrix of the natural world progressively unreal, hidden and alien to us.¹⁸

Having thus unwittingly objectified the world, early humans found themselves estranged from it, for they also saw (objectified) themselves as things apart, as they acquired egoic self-consciousness (see Chapter 8). This is clearly represented in the Eden story, where Adam and Eve realised that they were naked and hid themselves from God. ‘Who told you that you were naked?’ God asked, which suggests not only that the Fall caused them to become estranged from God, but that God no longer had direct control over their lives.¹⁹

Thus, while a cognitive quantum leap may indeed have conferred a radical evolutionary advantage on humans, it also came with unplanned consequences. Humans were no longer aligned with the world; having inadvertently activated their new ‘superpower’, they had crossed a threshold of some kind - into a new and unexplored psychic dimension - but could not then return to their former unknowing and innocent state, at one (like the animals) with their natural realm.

Nonhumans did not fall

One important but routinely ignored aspect of the biblical Fall myth (and what makes it especially relevant here) is the loss of the natural kinship between humans and nonhuman animals. Before the Fall, the animals were portrayed as subordinate but respected partners to humans.²⁰ According to the Bible account, as Humphrey Primatt notes, they share a common origin with humans, having all been created ‘from dust’ as living souls, they all share with humans the same ‘breath of life’.²¹ And yet, post-Fall, this fundamental belief seems to have become anathema to faith and reason alike.

¹⁸ This could be interpreted as the import of the saying (attributed to Jesus) from the Gnostic *Gospel Of Thomas*: ‘The Kingdom of the Father is rolled out on the earth and men (*sic*) do not see it’. Quoted in Tobias Churton, *The Gnostics* (London: Weidenfeld and Nicolson, in association with Channel Four and Border TV, 1987), p.21.

¹⁹ Genesis 3: 7-11, NEB. The conundrum here is that one cannot design a form of intelligence to make its own free choices and decisions and then reasonably demand that it obeys predictable operational parameters. This is apparent in current concerns about the open possibilities and potential dangers of advanced Artificial Intelligence.

²⁰ Genesis 2: 18-20, NEB. Incidentally and oddly, these verses suggest that God created the animals twice – having already done so in Genesis 1:25. In the later passage, the animals are brought to the man for him to name them.

²¹ Humphrey Primatt, *The Duty Of Humanity To Inferior Creatures*, abridged by the Rev. A. Broome, Founder of the SPCA (London 1831: Nisbet), pp.45-47. Google Play ebook <https://play.google.com/books/reader?id=XLxYAAAAcAAJ&pg=GBS.PA128&hl=en_GB> [Accessed 11 June 2023]. There is no biblical basis for the notion that animals do not possess souls, nor that their souls differ in some way from those of human beings.

This, I think, relates to Midgley's observations concerning human-animal dualism, where the animal nature is 'walled off' from spirit (a property supposedly unique to humans), thus giving rise to human alienation from the cosmos.²² Similarly, Sanbonmatsu flags up the dangers of a 'fraudulent ontology' which presents as dualism between human and nonhuman consciousness and experience.²³ In reality this is a fetishised aspect of the egoic self, the ideational transformation of capacity into identity.

Most significantly (and also widely ignored), the Genesis story also states that a plant-based diet was originally ordained for humans and all nonhumans (see note below). Thus, there was no pretext for humans to kill other creatures; no reason for animals to fear humans.²⁴ But this changed markedly after the Flood, when God (conditionally) sanctioned meat-eating, with the rather damning rider that, 'the fear of you and the dread of you shall be upon them' (see Chapter 3).²⁵

While the animals did not fall as humans did, our fallen-ness apparently impacted upon them and 'brought them down with us' anyway.²⁶ And this new dynamic is symbolised by the couple being given animal skins to wear upon being ejected from the Garden. They were literally and metaphorically thrown out into the cold.²⁷ Again, this seems to indicate the pivotal moment when *homo* species broke away from the animal kingdom and began to treat other species as resources.²⁸

However, despite the hiatus caused by humans, the animals remain in a state of intersubjective immersion within the natural world and true to the provisions of their own *telos*. For Primatt, 'Every creature is good in its kind, with everything in

²² Mary Midgley, 'The Origin Of Ethics', in Peter Singer, ed., *A Companion To Ethics* (Malden, MA; Oxford; Victoria: Blackwell Publishing, 1993), p.6.

²³ Sanbonmatsu, Introduction, *Critical Theory*, p.19.

²⁴ The notion that all animals were originally plant-eaters obviously contradicts natural history and the fossil record. However, the relevant verses are: 'God also said, "I give you all plants that bear seed everywhere on earth, and every tree bearing fruit which yields seed: they shall be yours for food. All green plants I give for food to the wild animals, to all the birds of heaven, and to all reptiles on earth, every living creature"'. Genesis 1: 29-30, NEB.

²⁵ Genesis 9: 2, NEB. This is of course problematic for a biblical vegan hypothesis. But given its prominence here, one can only surmise that meat-eating was not allowed up until that time.

²⁶ William Hamilton Drummond, *The Rights Of Animals: Man's Obligation To Treat Them With Humanity* [1838] (Hardpress, 2017), Chapter XI, paras 10–12. Kindle ebook.

²⁷ Genesis 3: 21, NEB. One possible naturalistic interpretation of this would be of the migration of early humans into colder regions of the earth where they needed to wear clothes. However, Richard Smoley sees this as a symbol for taking on the animal nature. See Smoley, *Inner Christianity*, p.57.

²⁸ There is archaeological evidence of hominids hunting animals long before modern humans existed. See, for instance, 'Humans Hunted For Meat 2 Million Years Ago', *Archaeology Wiki* (September 2012) <<https://www.archaeology.wiki/blog/2012/09/25/humans-hunted-for-meat-2-million-years-ago>> [Accessed 17 August, 2023]. This is also problematic for the hominids-as-vegetarians thesis, but I do not consider that it proves that humans are physiologically natural or obligate carnivores, any more than evidence of butchered hominids proves that humans are natural cannibals.

its place as ordained by God', which means we have no right to question the value of different species.²⁹ Unlike humans, some argue, they still exist in a just and blameless relationship with God and nature.³⁰

Previously I have referred to this state of natural, hypostatic interdependency of all natural phenomena in a general sense as 'respectivity' (see Chapter 6). By this I mean to indicate something akin to the Hindu concept of *dharma*, meaning the divine order of things: how the universe operates.³¹ This, essentially, corresponds to natural law, which we will come to in Chapter 10. Additionally, I now suggest the narrower term, *respective conformity to ordinance*, to indicate nonhumans' 'observance' of apparently law-like governance of their actions, including pro-social behaviours: the innate capacity of animals to live together, co-operate, care for and protect the weak and vulnerable - behaviour which could be regarded as 'the original matrix for morality'.³²

However, this is not to claim that there exists, nor that animals consciously obey, some kind of moral code inscribed into nature, but rather that, in conforming to integral law-like constraints that govern their condition, nonhumans naturally default to what humans would regard as moral behaviour in themselves.

Darwin thought that basic social instincts would resolve into morality once an animal attained the necessary cognitive level.³³ But animals are not moral in the human sense,³⁴ not because of incompetency but because they are already in a native condition of 'rightness'³⁵ or correctness. They do the right and rational thing by default; they have no *Reason* to do otherwise. As Christina Gerhardt remarks, 'According to Adorno, precisely that animal [which] Kantian ethics regards with such disdain should not be the source of derision, but instead the guide to morality'.³⁶

Thus, it is not incumbent on nonhumans to aspire to human morality, which is a set of synthetic constructs, necessarily self-imposed to manage our state of

²⁹ Primatt (abridged by Broome), *The Duty Of Humanity*, p.2.

³⁰ Some people of faith hold this view, but it remains a matter of theological debate. See, for example, 'Can Animals Sin?' (16 February 2020), Pastor Tim Harris, Woodburn Baptist Church, *Life.Church/YouVersion* <<https://www.bible.com/events/7061816>> [Accessed 16 August 2023].

³¹ Richard Smoley, *A Theology Of Love: Reimagining Christianity Through A Course In Miracles* (Vermont: Inner Traditions, 2019), Part 2, Chapter 7, para. 17. Kindle ebook.

³² Midgley, 'The Origin Of Ethics', in Singer, ed., *A Companion To Ethics*, p.8.

³³ *Ibid.*, p.10.

³⁴ Marc Bekoff and Jessica Pierce, *Wild Justice: The Moral Lives Of Animals* (Chicago and London: The University of Chicago Press, 2010), pp.144-45 and p.147.

³⁵ There is no precise term. The nearest equivalent one can suggest is 'righteous' in relation to human morality; however, the unfortunate connotations of the word render it all but inadmissible here.

³⁶ Christina Gerhardt, 'Thinking With: Animals In Schopenhauer, Horkheimer, And Adorno', in *Critical Theory*, ed. by Sanbonmatsu, p.139.

‘natural lawlessness’ (i.e., natural law – lessness). Nonhuman beings have no need of it; human society would self-destruct without it. For Midgley (in the context of the Fall and the imperfection in human nature), morality can be seen as the attempt to re-align our behaviour with the will of God.³⁷

In our fallen state, we cannot literally emulate the animals’ natural condition, but we can learn from them if we have sufficient openness and humility.³⁸ They provide living examples of what it means to remain in innocent accordance with nature. They inhabit the world as humans would were we not fallen. Again, they are ‘holy’ in the sense of their being wholly at one with themselves and their world.

This ‘at-oneness’ also pertains to our and their relationship with time. Some sceptics believe that animals are unconsciously ‘stuck’ inside this or that moment (see Chapters 2 and 3); another view is that humans and animals are different in that ‘one has history, and the other does not; [that] one dwells properly in the historical, while the other dwells in timeless nature’.³⁹ However, one could interpret this idea in relation to what esoteric teachings refer to as ‘the eternal now’ – the unmeasurable (in fact, dimensionless) instant which is neither past nor future and indeed is a kind of portal into a transcendent, unconditioned reality.⁴⁰

The significance of this will be familiar to students of modern spiritual teachers such as Eckart Tolle who offer deep insights and practical guidance on realising the benefits of living in ‘the Now’ for oneself. A key part of this involves realising how compulsive and egoic mental activity concerning past and future obscures and prevents most of us from living in harmony with, the simple givenness (or ‘suchness’) of the present moment. Ironically, this may point to the very crux of human dysfunction. In a sense, it means that we are not really here; we do not really connect consciously with life itself but exist in a state of enmity with it.⁴¹ This seems an apt description of alienation itself.

³⁷ Midgley, ‘The Origin Of Ethics’, in *A Companion To Ethics*, ed. by Peter Singer, p.4.

³⁸ This may be the import of the saying: ‘Go and ask the cattle/ask the birds of the air to inform you/or tell the creatures that crawl to teach you/and the fishes of the sea to give you instruction/Who cannot learn from all these that the Lord’s own hand has done this?’. Job 12:7-10, NEB.

³⁹ Eduardo Mendieta, ‘Animal Is To Kantianism As Jew Is To Fascism’, in *Critical Theory*, ed. by Sanbonmatsu, p.158, with reference to Jacques Derrida, ‘The Animal That Therefore I Am (More To Follow)’, *Critical Inquiry*, 28 (2002), 369-418. (Note: Mendieta is here describing or characterising such a position for critical purposes, in the context of his exposition of Derrida’s ideas.)

⁴⁰ See, for example, Aldous Huxley, *The Perennial Philosophy: An Interpretation Of The Great Mystics, East And West* (New York: HarperCollins, 2004), p.186. The teachings concerned are too complex and diverse to account for satisfactorily here. However, I would recommend the whole of Huxley’s chapter, ‘Time And Eternity’, which provides an excellent overview.

⁴¹ See Eckhart Tolle, *The Power Of Now: A Guide To Spiritual Enlightenment* (London: Hodder & Stoughton, 1999). Also, interestingly, Robert Burns considers the idea of animals living in the present moment in his well-known poem, ‘The Mouse’. See David Perkins, *Romanticism And Animal Rights* (Cambridge University Press, 2003), p.12.

Thus, it seems that what we have acquired through *Reason* (as opposed to rationality) is the very thing that we need to lose before we can recover that state of innocence, before we can 'grow back' into nature, to be healed ourselves and for nature to be healed of the harms that humans have visited upon it.⁴²

From dysfunction to destruction

As outsiders in the world, successive generations of humans have had to acclimatise to their specialised and ever-evolving cognitive capacities and the attendant drawbacks indicated above: in effect, remaking the world in our own image, and cumulatively remaking ourselves to conform to it; constantly 'over-writing' the natural world, and underwriting a false and distorted relationship with that world.

There is a marked paradox here – i.e., that humans evolved into a condition which entailed increasing antagonism to the outworking of evolution itself. We are no longer governed by nature's 'default settings', but we independently direct our own evolution by selectively deviating from them in the process of fulfilling what Marx (and Kant, in a different way) heralds as our unique creative and transformative potential (see Chapter 7).

Until, perhaps, the middle of the last century, this apparently unlimited capacity for exploitation of natural resources was regarded in overwhelmingly positive terms. But in recent times, we have become more conscious of the outworking of humans' evolutionary disjunct and disidentification from the natural world – particularly the catastrophic damage that our species continues to inflict on the global environment. (This, I think, is a credible reading of the biblical declaration that the earth itself was 'cursed' after the Fall.)⁴³

Nevertheless, today, even in the face of alarming evidence of the present and projected impact of human-driven climate change – and the need for urgent action to avert planetary disaster - humans in general seem unable to overcome their own inertia, resistance and denial. (One could of course make similar observations in relation to other baseline evils such as war, genocide, preventable disease, poverty, starvation, and all forms of oppression, both human and

⁴² This, incidentally, contradicts the notion of humans being cast 'in the image of God'. As Primatt points out, humans were given dominion provisionally, as a gift – which we forfeit if we abuse it. Arguably, through our sustained destruction of nature we have done exactly that: thus, whatever our original status, we are no longer entitled to make this claim. Primatt (abridged by Broome), *The Duty Of Humanity*, p.58.

⁴³ Genesis, 3:17, NEB.

nonhuman.) Ironically, in controlling and warping nature to our own ends we have lost control of ourselves as a species.⁴⁴

To say the least, such arbitrary and irrational wilfulness conflicts with the claimed equation of humanity itself with the faculty of reason. Yet, in the light of Hume's deductions, reason itself does not provide the foundational 'source code' of moral good,⁴⁵ nor the motive to act for good.⁴⁶ Reason may be used not only to justify bad motives but to represent those motives to be good, as did the Nazis, for instance, in their rationalistic programmes of deliberate other-extinction (one must not forget how much of human evil is directed at other human beings). For Adorno and Horkheimer, 'Human beings are so radically estranged from themselves and from nature that they know only how to use and harm each other'.⁴⁷

Others have said likewise. Carl Boggs considers that human behaviour seems to support Hobbes' assessment of humans repeatedly 'proving themselves the most destructive and murderous of all creatures'.⁴⁸ And for Reich, humans are 'distinguished by bottomless sadism and mechanistic science'.⁴⁹ The latter idea suggest an incongruous partnership of reason and unreason - two characteristics which have most signally converged on our instrumental use and abuse of animals, particularly in modern times. (This raises the question of how humans are able to act for good in spite of this, which I will go on to address below.)

Psychopathology of violence to animals

We have already discussed how most humans are content passively to support the direct and collateral harms associated with animal exploitation. Many also actively harm and kill animals on the pretext of 'sport', recreation or 'control'. Moreover, some indulge in extreme cruelty for its own sake – taking evident delight in hurting and killing defenceless animals – even smiling for the camera as they do, as Sanbonmatsu records in his introduction to *Critical Theory And Animal*

⁴⁴ Max Horkheimer says something broadly similar in 'Materialism And Morality', *Between Philosophy And Social Science: Selected Early Writings Of Max Horkheimer*, trans. by Hunter, and others (Cambridge, MA: MIT Press, 1993), referenced by Christina Gerhardt, 'Thinking With: Animals In Schopenhauer, Horkheimer and Adorno', in *Critical Theory*, ed. by Sanbonmatsu, p.137.

⁴⁵ David Hume, *A Treatise Of Human Nature* (Wentworth Press, 2016), Book III, Part I, Section 1 ('Moral Distinctions Not Derived From Reason'). Kindle ebook.

⁴⁶ Schopenhauer blames Kant for linking the two things. See, Arthur Schopenhauer, *The Basis Of Morality*, tr. by E. F. J. Payne (Jovian Press, 2017), Part II, Chapter IV, para. 28. Kindle ebook.

⁴⁷ Max Horkheimer and Theodor Adorno, *Dialectic Of Enlightenment: Philosophical Fragments*, ed. by Noerr and Jephcott (Stanford, CA: Stanford University Press, 2002), quoted by Zipporah Weisberg, 'Animal Repression: Speciesism As Pathology', in *Critical Theory*, ed. by Sanbonmatsu, p.180.

⁴⁸ Carl Boggs, 'Corporate Power, Ecological Crisis, And Animal Rights', in *Critical Theory*, ed. by Sanbonmatsu, p.77.

⁴⁹ Wilhelm Reich, *The Mass Psychology Of Fascism* (New York: Farrar, Strauss, Giroux, 1971). Referenced by Sanbonmatsu, Introduction, *Critical Theory*, p.10.

Liberation.⁵⁰ As he also remarks, 'Such ruthless and extreme acts of violence against other animals are in fact the norm in every society in the world'.⁵¹

It is difficult to account for such behaviour in a species which believes itself to be rational and good. Those involved cannot justly claim not to realise that what they are doing is commonly regarded as bad, cruel, despicable and so on, but do it anyway. In Hegelian terms, this is 'radical evil' – the capacity (or 'comportment towards the world') where the individual wantonly flouts accepted moral norms; acting within a kind of ethical void, with no notion of objective good or sense of guilt.⁵²

However, this does not really get to the underlying motive for such behaviour towards animals. Some argue that people act hatefully towards animals simply because they do in fact, hate them.⁵³ Wilhelm Reich, for instance spoke of 'a foundational hatred of the animal [...] which [has] come to structure virtually the entirety of human consciousness and culture'.⁵⁴

While humans define themselves categorically against animals, I doubt that hatred is the main operating principle here. Granted, many express hatred for snakes or rats, for instance, as a pretext for killing them, but few say the same about newborn lambs, chicks or puppies; and yet even such inoffensive creatures as these also fall prey to arbitrary and wilful human violence.

Nevertheless (to go along with – and greatly simplify - the hypothesis), this putative hatred arises because humans cannot face, and therefore deny and repress the bare fact of their own animality. This repression then leads to various neuroses which manifest as fear or guilt stemming from 'inner horror' at the violence and suffering that we inflict on animals.⁵⁵ Weisberg sees this as a 'tug of war between loving and hateful impulses towards other animals'; and trying to manage these complex feelings may lead to ambivalence, violence or a kind of emotional numbness ('hysterical indifference' in Freudian terms), which

⁵⁰ Sanbonmatsu, Introduction, *Critical Theory*, p.2.

⁵¹ Ibid., p.2.

Many thousands of animal cruelty cases are investigated in the UK and elsewhere each year (some of which involve outright depravity). For general information see Andrew Marshall, 'Animal Abuse Facts & The Cruelty Statistics In 2025', *Dogs Academy* (updated January 2025)

<<https://dogsacademy.org/animal-abuse-facts-and-stats/>> [Accessed 25 January 2025]. As with other crimes, one can only guess at how many similar cases go unreported.

⁵² G. W. F. Hegel, *Elements Of The Philosophy Of Right* (New York: Cambridge University Press, 2006), referenced in Aaron Bell, 'The Dialectic Of Anthropocentrism' in *Critical Theory*, ed. by Sanbonmatsu, pp.169-70.

⁵³ Zipporah Weisberg, 'Animal Repression', in *Critical Theory*, ed. by Sanbonmatsu, p.178.

⁵⁴ Reich, *The Mass Psychology Of Fascism*, quoted by Sanbonmatsu, Introduction, *Critical Theory*, p.9.

⁵⁵ Weisberg, 'Animal Repression', in *Critical Theory*, ed. by Sanbonmatsu, p.181. See also Robert Grillo, *Farm To Fable: The Fictions Of Our Animal Consuming Culture* (Danvers, MA: Vegan Publishers 2016), p.101.

makes it possible to kill animals and yet remain ‘immune’ to the actuality of the violence being done.⁵⁶

Again, this hypothesis seems at odds with the wanton enjoyment of cruelty described above. (It is surely contradictory to say that one can be ‘numb’ and sadistically aroused at the same time.) Terms such as ‘hysterical indifference’ (originally applied to symptomatic reactions to trauma)⁵⁷ are in danger of pathologizing actions which are in fact voluntary. The wilful torture of defenceless animals does not *happen* to people: and if fear or guilt arises at all, the person is free to stop doing the very thing that induces it. Thus, it seems to me that such diagnoses are themselves part of the denial – a refusal to accept that ordinary humans freely engage in plainly wicked actions.

A simpler and more parsimonious inference is that the sadistic enjoyment is just that: i.e., that indifference to animal suffering is not ‘hysterical’ but an actual void of feeling; that putative ‘guilt’ is not remorse, but a resentful awareness of transgression. The perpetrator does not want to stop – for the pleasure outweighs any inconvenient moral considerations - but does not want to be penalised for their actions either. (See the ‘duck-rabbit’ discussion in Chapter 7.)

Whatever psychic dynamics are at work, the aberrations and paradoxes outlined above nevertheless suggest the existence of a deep-rooted and fundamental moral flaw or sickness. For Primatt, ‘Human nature itself seems to have been transformed through vicious habits’.⁵⁸ Whether this is true, or whether the flaw is already ‘hard wired’ in us, we may simply have to countenance the possibility that actual and unalloyed wickedness is a persisting, if *latent*, feature of the human psyche, even though this may not necessarily be expressed in all (or even most) members of the species.

The ambivalence of moral systems

As social animals, we can hardly be unaware of the major moral systems which have, over the course of millennia, shaped our beliefs about what it means to be morally good. No recognised moral-ethical system mandates a moral right to

⁵⁶ Weisberg, ‘Animal Repression’, in *Critical Theory*, ed. by Sanbonmatsu, pp.182-83. See also Rebekah Humphreys, ‘Moral Feelings, Compartmentalization And Desensitization In The Practice Of Animal Experimentation’, in *Animals & Business Ethics*, ed. by Natalie Thomas (Palgrave, 2022), 229-50.

⁵⁷ The term originates from the Greek work for uterus or womb, which the early psychologist, Charcot (followed by Freud), thought of as the seat of extreme emotional behaviour, brought on by shock. Referenced in *The Psychology Book* (London, New York, Melbourne, Munich and Delhi: Dorling Kindersley, 2012), p.30.

⁵⁸ Humphrey Primatt, *The Duty Of Humanity To Inferior Creatures*, abridged by the Rev. A. Broome, Founder of the SPCA (London 1831: Nisbet), p.120. Google Play ebook <https://play.google.com/books/reader?id=XLxYAAAAcAAJ&pg=GBS.PA128&hl=en_GB> [Accessed 11 June 2023].

inflict cruelty on others.⁵⁹ Indeed, cruelty, which Seneca refers to as ‘savagery’ (see Chapter 4) is expressly and unambiguously forbidden, and yet we see examples of it virtually everywhere.

Even if humans are ‘originally bad’ this does not mean that we are helpless and innocent victims of our own nature: for with regard to cruelty, which means, essentially, to cause unnecessary pain,⁶⁰ we ordinarily recognise what we are witnessing. Both the sadist and the empath automatically respond to the outward signs of suffering, for they do not doubt that it is real - the difference being that the former enjoys causing it while the latter feels for the victim.

Many see cruelty as the ultimate evil. For Henry Salt, cruelty is based on a lack of imaginative sympathy,⁶¹ while Primatt avers that ‘cruelty is atheism’.⁶² Jane Goodall calls cruelty ‘the very worst of sins’, adding that fighting it ‘brings us into direct conflict with that unfortunate streak of inhumanity that lurks in all of us’.⁶³ And this latter remark seems to imply that even our compassionate instincts are fraught in some way. It resonates with Schopenhauer’s remark that ‘the greatest mystery of ethics’ is that a basically selfish species also has a fundamental drive to do good.⁶⁴

It should be acknowledged here that many would vehemently reject this characterisation altogether; and I stress again that I am indicating observable generic aspects of human nature, not all (or even most) human individuals. Brian Luke contends that, ‘Sympathy for animals is indeed a deep, primary disposition that is only obscured and repressed by a process of intense social conditioning’.⁶⁵

⁵⁹ William Hamilton Drummond (*inter alia*) gives various example of cruelty to animals being forbidden in both the Old and New Testaments of the Bible, and mercy towards them being an aspect of righteousness. He also considers that cruelty is alien to the spirit of true Christianity. See William Hamilton Drummond, *The Rights Of Animals: Man’s Obligation To Treat Them With Humanity* [1838] (Hardpress, 2017), Chapter II, para. 22 – Chapter III, para. 8. Kindle ebook. All cruelty to animals (torture, mutilation, sport hunting, etc) is forbidden in Islam. Islam was also the first culture to set up organisations for the protection of animals. See Mahfouz Azzam, ‘Islam And Animal Rights’, in *Animals, Ethics And Trade: The Challenge Of Animal Sentience*, ed. by Jacky Turner and Joyce D’Silva (London; Sterling, VA: Earthscan, 2006), pp.129-32. Schopenhauer also remarks that Europe and America had to set up special animal protection societies; in the East, this role is integral to religion. Schopenhauer, *The Basis Of Morality*, Part III, Chapter VIII, para. 11.

⁶⁰ Primatt, *The Duty Of Humanity*, p.104.

⁶¹ Henry S. Salt, *Animals’ Rights Considered In Relation To Social Progress* (New York: Macmillan & Co., 1894), p.15. *Internet Archive* ebook
<<https://archive.org/details/animalsrightsc00salt/page/n7/mode/2up>> [Accessed 25 July 2023].

⁶² Primatt, *The Duty Of Humanity*, p.126.

⁶³ Jane Goodall, *Through A Window* (Boston: Houghton Mifflin, 2000), referenced by Carl Boggs, ‘Corporate Power, Ecological Crisis And Animal Rights’, in *Critical Theory*, ed. by Sanbonmatsu, p.75.

⁶⁴ Schopenhauer, *The Basis Of Morality*, Part III, Chapter III, para. 8; and Part III, Chapter V, para. 13.

⁶⁵ Brian Luke, ‘Justice, Caring, And Animal Liberation’, *Between The Species*, 8:2 (1992), referenced by Josephine Donovan, ‘Sympathy And Interspecies Care: Toward A Unified Theory Of Eco- And Animal Liberation’, in *Critical Theory*, ed. by Sanbonmatsu, p.284.

Similarly, Drummond considers that children are not naturally cruel, but can be habituated to it – making it incumbent on parents to teach them to be kind and compassionate.⁶⁶

However, it seems more important for adults to learn not to be cruel, nor to sanction cruelty, otherwise they are not qualified to instruct children. It may then be that unlearning rationalistic ‘hardness’ and re-learning our moral sense is, necessarily ‘to become as children’,⁶⁷ to espouse a renewed state of innocence, where the very idea of cruelty cannot take root.

But if human nature is intrinsically flawed in this way, how can it be changed for the good? My view is that (in terms of the account above) we cannot become un-flawed, but we can learn to ‘act out’ the good and forestall the worst effects of the bad; in spite of what we may be by nature, we can at least be good in effect. We can make the simple choice not to do avoidable harm.

Even if some humans do hate animals enough to harm them on purpose, I think the wider struggle is with simple indifference. And as I noted in Chapter 7, ambivalence towards concern for animal suffering is reflected even in the work of major philosophers. Aaron Bell notes how Kant (and Levinas) on the one hand argued for (indirect) obligations to be kind to animals, while ‘precluding the animal from entering into the moral circuit’ – echoing Korsgaard’s criticism of Kant’s system as almost incoherent and contradictory.⁶⁸ We can be kind if we wish, because it is good for us to be kind, but we are not directly obliged towards the victims themselves. Some writers, after Descartes, consider that we should not waste our time even *thinking* about their suffering (see Chapters 2 and 3).

However, this reduces compassionate instincts to mere niceties, unworthy of serious philosophical attention. In terms of praxis, this consigns the conscientious moral agent to a private bubble of moral *anomie*, uncertain how to act. This chimes with Grillo’s remark that, ‘It is not that most people don’t care about animals – but rather that they do not connect belief and action’.⁶⁹ I think it is more likely that most people simply do not care enough to overcome their inertia. But those who do care may have to fight the powerful current of conventional mores or prevailing norms; it is unsurprising, then, that most simply default to those norms anyway.

⁶⁶ Drummond, *The Rights Of Animals*, Chapter X, paras 3–20.

⁶⁷ Matthew, 18:3, NEB.

⁶⁸ Aaron Bell, ‘The Dialectic Of Anthropocentrism’, in *Critical Theory*, ed. by Sanbonmatsu, p.173. See also Christine M. Korsgaard, *Fellow Creatures: Our Obligations To The Other Animals* (Oxford: Oxford University Press) pp.102–03.

⁶⁹ Robert Grillo, *Farm To Fable: The Fictions Of Our Animal Consuming Culture* (Danvers, MA: Vegan Publishers 2016), p.91.

The limitations of ethics and the elevation of feeling

Henry Salt spoke of the need for a universal sense of justice towards all living things, which he equated with 'true sanity of temperament'.⁷⁰ But, given the situation outlined above, can there ever be a consistent and generally recognised practical moral framework around animal ethics, or must it remain a matter of subjective personal conviction? Or is animal ethics in practice simply incompatible with the overwhelmingly anthropocentric Western tradition?

As we noted in Chapter 8, and Robert Garner also indicates, neither Marxism nor Liberalism offers a coherent basis for the animal rights position.⁷¹ (Indeed, they are antagonistic towards it.) Sanbonmatsu questions whether the liberal, analytic tradition can 'fully illuminate' this issue, while suggesting that continental philosophers have shown greater insight.⁷² Garner expresses optimism about the deep ecology movement, which sees animals as inherently valuable, but recognises that it is more concerned with the value of the species itself rather than the interests of the sentient individual.⁷³

A completely different kind of approach seems to be needed: one which does not arbitrarily exclude animals, nor try to 'force-fit' them (conditionally) into intrinsically speciesist ethical systems that categorically reject them, nor include them as collective biological entities on the same footing as other generic features of the living world.

On this front, the ideas broadly associated with the care ethic, Schopenhauer, the Frankfurt School and radical eco-feminism (which essentially places speciesism on a similar paradigmatic footing to sexism)⁷⁴ seem most promising - opening up new pathways which straddle the pragmatic, the personal, the political, the ethical and even the spiritual. Particularly apposite here (to keep the foregoing 'Fall' discussion in sight) is the feminist critique of the 'masculinist' aspect of category-constructs, through which we conceptually fragment the world of nature in line with our own detached and distorted perceptions of it (see Chapter 8).

Carol Adams (like Josephine Donovan) argues that the emotionless objectivity of the analytic approach disvalues feelings and the 'feminine' notion of caring about animals.⁷⁵ This 'Neo-Cartesian mind-game' (which Adams links to human male privilege) 'reduces the experiences of women, and of animals, to abstraction,

⁷⁰ Salt, *Animals' Rights In Relation To Social Progress*, p.21.

⁷¹ Robert Garner, 'Political Ideologies And The Moral Status Of Animals', *Journal Of Political Ideologies*, 8:2 (2003), 233-46 <<http://dx.doi.org/10.1080/13569310306087>>.

⁷² Sanbonmatsu, Introduction, *Critical Theory*, p.27.

⁷³ Garner, 'Political Ideologies', p.243.

⁷⁴ Josephine Donovan, 'Sympathy And Interspecies Care', in *Critical Theory*, ed. by Sanbonmatsu, p.277. See also Garner, 'Political Ideologies', pp.242-43.

⁷⁵ Sanbonmatsu, Introduction, *Critical Theory*, p.28.

rendering them immaterial'.⁷⁶ Likewise, Weisberg talks of the 'irrational logic that reduces all beings [...] to mere objects of calculation'.⁷⁷

Along similar lines, Adorno and Horkheimer regarded 'enlightenment' (instrumental reason) as 'coterminous with the disenchantment of nature' and mastery over it.⁷⁸ And the outcome of this mastery of nature is not just increased brutality and violence⁷⁹ but the 'obfuscation of evil through abstract rationalisation, which serves to distance one from its activity'.⁸⁰

Arguably, this 'hardline' rationality reifies into hardness of the ego; hardness towards nonhuman beings becomes a kind of virtue, and pity a vice (see the discussion of fascism in Chapters 7 and 8). Indeed, for Aaron Bell, 'The monstrosity of anthropocentrism's purpose [is] to close off even the possibility of pity, and to completely exclude animals from the moral circuit'.⁸¹ For Bell, 'This is not merely analogous to Hegel's concept of radical evil – it *is* evil'.⁸² And this not only works to 'eradicate pity for all that is other' but amounts to 'war on compassion itself'.⁸³

The eloquently vehement quotes above, I think, clearly attest to the active reality of the 'dangerous knowledge' (or knowing) which I highlighted in relation to the Fall myth. This is our vaunted capacity for abstract and rationalistic objectivity, which ultimately forms a hardened ideological shell that makes us immune to our own violence and alienates us even from our own deepest moral instincts by denying the feelings that both reveal and accompany them.

Rationalistic objectification means that we can represent the world around us, but on the basis of constructs and signifiers which are themselves inert. Without compassion, eventually, harms occurring to others may become mere ideas; thus, for Boggs, 'Isolation from atrocities' occurs because (removed from sight) 'the pain and suffering does not register on the supposedly empathetic human psyche'.⁸⁴ Even if we say, for instance, 'animal slaughter is cruel', the words both indicate and obscure the thing described; they belie the significance of the

⁷⁶ Carol J. Adams, 'After MacKinnon: Sexual Inequality In The Animal Movement', in *Critical Theory*, ed. by Sanbonmatsu, p.261. (Citing Catharine MacKinnon, 'Of Mice And Men'.)

⁷⁷ Zipporah Weisberg, 'Animal Repression: Speciesism As Pathology', in *Critical Theory*, ed. by Sanbonmatsu, p.179.

⁷⁸ Max Horkheimer and Theodor Adorno, *Dialectic Of Enlightenment: Philosophical Fragments*, ed. by Noerr and Jephcott (Stanford, CA: Stanford University Press, 2002), quoted by Weisberg, 'Animal Repression', in *Critical Theory*, ed. by Sanbonmatsu, p.178.

⁷⁹ Weisberg, 'Animal Repression', in *Critical Theory*, ed. by Sanbonmatsu, p.179.

⁸⁰ Marti Kheel, 'The Liberation Of Nature: A Circular Affair', *Environmental Ethics*, 7 (1985), quoted by Donovan, 'Sympathy And Interspecies Care', in *Critical Theory*, ed. by Sanbonmatsu, p.288.

⁸¹ Bell, 'The Dialectic Of Anthropocentrism', in *Critical Theory*, ed. by Sanbonmatsu, p.173.

⁸² *Ibid.*, p.171.

⁸³ *Ibid.*, p.172. (Quoting Derrida, *The Animal That Therefore I Am.*)

⁸⁴ Carl Boggs, 'Corporate Power, Ecological Crisis, And Animal Rights', in *Critical Theory*, ed. by Sanbonmatsu, p.84.

signifier. They create the illusion of knowing whereof we speak, even while we are speaking of something that can only be known experientially.

Compassion as moral instinct

For Adams, the emphasis on rationality ‘precludes appealing to the one aspect of ourselves that might enable us to recognise and respond to the situation that animals are in – our capacity to care, which we experience bodily’.⁸⁵ As Mendieta puts it, ‘If we inure ourselves to the animal gaze [...] we already have extinguished our subjectivity’.⁸⁶

Our task, then, is not only to recognise our subjective responses, but to prioritise them. Boundless compassion towards all beings, Schopenhauer insists, is the only true moral motive⁸⁷ - a principle which ‘rests on no arguments and needs none’.⁸⁸ Indeed, in his account, the felt response takes priority over reason-derived moral calculation; it is more important than ‘the stern command of duty’ or abstract principles.⁸⁹

Compassion, for Schopenhauer (see Chapter 7), involves a kind of empathetic identification with others’ pain⁹⁰ - a ‘direct and instinctive participation in the suffering of others’.⁹¹ And in the process, the distinction between self and other begins to break down,⁹² the sympathetic response frees us from ‘the illusion of egocentricity’.⁹³

This is also close to Drummond’s idea that our moral obligation towards animals is revealed to us by (God-given) instinctive feelings – ‘benevolent affections’, which are prior to reason and implanted in us by nature.⁹⁴ Similarly, Salt speaks of the

⁸⁵ Adams, ‘After MacKinnon’, in *Critical Theory*, ed. by Sanbonmatsu, pp.260-61.

⁸⁶ Eduardo Mendieta, ‘Animal Is To Kantianism As Jew Is To Fascism’, in *Critical Theory*, ed. by Sanbonmatsu, p.152.

⁸⁷ Schopenhauer, *The Basis Of Morality*, Part III, Chapter VIII, para. 5.

⁸⁸ Ibid., Part III, Chapter VII, para. 2.

⁸⁹ Schopenhauer, *The Basis Of Morality*, Part III, Chapter VIII, para. 13. Schopenhauer remarks that compassion is a cardinal virtue in Eastern moral systems. He regards Europe as a ‘lamentable exception’, characterised by codified legalism. (Regrettably, Schopenhauer expresses this point in antisemitic terms - which I in no way endorse or defend.) Ibid., Part III, Chapter VIII, para. 21.

⁹⁰ Donovan, ‘Sympathy And Interspecies Care’, in *Critical Theory*, ed. by Sanbonmatsu, p.285.

⁹¹ Schopenhauer, *The Basis Of Morality*, Part III, Chapter VII, para. 2.

⁹² Christina Gerhardt, ‘Thinking With: Animals In Schopenhauer, Horkheimer, And Adorno’, in *Critical Theory*, ed. by Sanbonmatsu, p.144; and Schopenhauer, *The Basis Of Morality*, Part III, Chapter V, para.12; and Part III, Chapter VII, para. 5.

⁹³ Donovan, ‘Sympathy And Interspecies Care’, in *Critical Theory*, ed. by Sanbonmatsu, p.286. Donovan notes that Max Scheler, in *The Nature of Sympathy* (Hamden, CT: Archon, 1970), shares this view with Schopenhauer.

⁹⁴ William Hamilton Drummond, *The Rights Of Animals*, Chapter II, paras 1-6.

moral 'instinctive shock' which obtains whether we witness the suffering of human beings or animals.⁹⁵

For Schopenhauer, humans are connected to all other creatures through 'the Pool of Being' which exists beyond the '*maya* illusion of differences'.⁹⁶ This idea is also implicit in the Frankfurt School's concept of *mitsein* (inter-being) which espouses the idea of humans co-existing with animals without forcing them into human categories and systems.⁹⁷ Intentionally or not, there are echoes here of the idealised natural kinship that (according to the myth) obtained before the Fall.

Sympathy theory and practice

If this is right (as I think it is) we must learn to trust and nurture our own compassionate intuitions and emotional responses. But what does this mean in practice?

Various eminent commentators have advocated the deliberate cultivation of this kind of skill in relation to animals, latterly under the aegis of the care ethic. Essentially, this means learning to pay attention to them at a deep level. This has been described variously as 'attentive love' (a concept developed by Iris Murdoch, with the influence of Simone Weil and others)⁹⁸ and 'empathic anthropomorphism' based on empathy and careful observation in pursuit of understanding other species.⁹⁹

The aim of this approach is to 'exercise the moral imagination' (the very thing identified as lacking in cruelty, above) and it is a practice that can be learned.¹⁰⁰ Shapiro and Stein, for instance, developed specific techniques to achieve this in relation to animals, known as 'kinesthetic (or 'sensual') empathy'.¹⁰¹ Elsewhere, Husserl explains, 'I try to picture to myself, standing here, how I would look, how I

⁹⁵ Salt, *Animals' Rights Considered In Relation To Social Progress*, p.15.

⁹⁶ Arthur Schopenhauer, *The Basis Of Morality*, Indianapolis, IN: Bobbs-Merrill, 1965), referenced by Josephine Donovan, 'Sympathy And Interspecies Care', in *Critical Theory*, ed. by Sanbonmatsu, p.285.

⁹⁷ Sanbonmatsu, Introduction, *Critical Theory*, pp.6-7.

⁹⁸ Donovan here refers to Iris Murdoch's book, *Metaphysics As A Guide To Morals* (New York: Viking Penguin, 1993). She also discusses the influence of a range of other thinkers, including Hume, Schopenhauer, Buber, Husserl, Scheler, and Stein. Josephine Donovan, 'Sympathy And Interspecies Care', in *Critical Theory*, ed. by Sanbonmatsu, p.279.

⁹⁹ Karen Davis, 'Procrustean Solutions To Animal Identity And Welfare Problems' in *Critical Theory*, ed. by Sanbonmatsu, p.47.

¹⁰⁰ Donovan, 'Sympathy And Interspecies Care', in *Critical Theory*, ed. by Sanbonmatsu, p.283.

¹⁰¹ Kenneth Shapiro and Edith Stein, respectively, referenced by Donovan, *ibid.*, pp.281-82.

would feel, and how the world would appear if I were there – in the place of that body which resembles mine and acts as I might'.¹⁰²

Of necessity, as Davis says, 'We can only see the world through their eyes by looking through our own'.¹⁰³ But the objective is to come to understand animals in their own terms rather than ours. Indeed, Environmental ethicist Paul Taylor thinks such knowledge must underpin any environmental ethic, through close study and observation, focusing directly on their *telos*, their needs.¹⁰⁴

Here, one could draw parallels with the modern secular adoption of contemplative and meditative practices associated with Eastern and other esoteric philosophies, such as yoga, meditation and mindfulness – practices which can radically change how we perceive and act in the world. One can also see certain parallels with the radical other-prioritisation of 'Sermon on the Mount morality' in its absolute and compassionate focus on the moral patient, regardless of one's own interests, or indeed accepted social norms.

Can sympathy provide knowledge?

Sympathy theorists consider that sympathy is a legitimate form of ethical knowledge that includes a cognitive, rational dimension.¹⁰⁵ Josephine Donovan takes this view,¹⁰⁶ but goes further (echoing Schopenhauer), seeing sympathy as the primary principle of ethical decision making and action; as a principle that precedes justice.¹⁰⁷

Scheler also saw sympathy as knowledge but used (in my opinion) the preferable term, *verstehen* (understanding)¹⁰⁸ - a faculty which he described as a kind of universal language of nature, which is accessible to humans if they learn to develop the capacity to decode it, enabling them to see all organic and animal life as it really is.¹⁰⁹

¹⁰² Edmund Husserl, in *Husserl: Expositions And Appraisals*, ed. by Elliston and McCormick (Notre Dame, IN: University of Notre Dame Press, 1977), referenced by Donovan, *Ibid.*, p.280. (Donovan also highlights similar ideas in various other thinkers, including Max Scheler, Philip Mercer, and H.B. Acton.)

¹⁰³ Davis, 'Procrustean Solutions', in *Critical Theory*, ed. by Sanbonmatsu, p.47.

¹⁰⁴ Paul Taylor, 'The Ethics Of Respect For Nature', in *The Animal Rights/Environmental Ethics Debate: The Environmental Perspective*, ed. by Eugene C. Hargrove (Albany: State University of New York Press, 1992), referenced by Donovan, 'Sympathy And Interspecies Care', in *Critical Theory*, ed. by Sanbonmatsu, p.282.

¹⁰⁵ Donovan, 'Sympathy And Interspecies Care', p.287 and p.280. (Here Donovan also cites Philip Mercer, Edmund Husserl, and H. B. Acton.)

¹⁰⁶ *Ibid.*, p.277.

¹⁰⁷ Donovan, 'Sympathy And Interspecies Care', p.283.

¹⁰⁸ *Ibid.*, p.280. Here Donovan refers to Max Scheler, in *The Nature of Sympathy* (Hamden, CT: Archon, 1970).

¹⁰⁹ *Ibid.*, p.280.

All of this directly contradicts the Kantian position, which denies that feeling or inclination ('sentiment') can provide a proper or reliable motive for ethical action.¹¹⁰ Ironically, the emphasis on rationality and the devalidation of emotions is evident even in animal ethics.¹¹¹ Robert Garner is positive about eco-feminism and the care ethic, but also considers that this approach could be seen as too vague (and 'voluntary') to be universally applicable.¹¹² More damningly, Tom Regan sees ethic of care feminism as 'abjuring the use of reason'.¹¹³

It is of course perfectly reasonable to ask how we can be certain that our subjective reactions are valid and correct; and in response I do not think such certainty is possible. Certainly, one perceives, intuitively, or infers – and *knows* within oneself – but one cannot demonstrate it; and on this basis sympathy as 'knowledge' in a strict, objective sense seems to be technically incorrect.

Nevertheless, I do not think one can justify making irrefutable knowledge and certainty (of outcome) a necessary condition of acting to prevent avoidable suffering. For if we demand proof of such harm as a consequence before we act to avoid it, we freely consent to potential harm when we are in a position to prevent it. We place intellectual pride over moral responsibility; we would rather permit suffering than be wrong. This in itself seems to me to be morally unsupportable. More succinctly, as Jane Goodall says, we should (if it is even a possibility that animals feel things) give them the benefit of the doubt. We should not let the objectivity of the scientific method override human intuition and compassion.¹¹⁴

However, this apparent downgrading of conventional epistemological principles is not to 'abjure reason' but to recognise its limitations in certain moral situations and know when to 'change lenses', as scientists in the early 20th century realised that classical physics could not explain sub-atomic phenomena, which seemed to defy known physical laws; but they did not then 'abjure' classical physics where ordinary classical principles obtained.

Thus, this approach to ethics does not ignore but rather augments what we can now describe scientifically: it focuses on what we can reasonably apprehend, as it were, directly in front of us, rather than on difficult, abstract and often artificial moral problematics that serve to shore up the sceptical position. We may not be able to know or solve everything, but we can know *enough* to act. All of the notions outlined above accord with an overwhelming body of evidence that

¹¹⁰ Donovan, 'Sympathy And Interspecies Care', p.279.

¹¹¹ Adams, 'After MacKinnon' in *Critical Theory*, ed. by Sanbonmatsu, p.261.

¹¹² Garner, 'Political Ideologies', pp.241-43.

¹¹³ Tom Regan, *The Three Generations: Reflections On The Coming Generation* (Philadelphia, PA: Temple University Press, 1992), quoted by Donovan, 'Sympathy And Interspecies Care', in *Critical Theory*, ed. by Sanbonmatsu, p.280.

¹¹⁴ Jane Goodall, 'The Sentience Of Chimpanzees And Other Animals', in *Animals, Ethics And Trade: The Challenge Of Animal Sentience*, ed. by Jacky Turner and Joyce D'Silva (London; Sterling, VA: Earthscan, 2006), p.7.

sentient nonhuman animals are in all important respects 'like us' in their psycho-physical responses to being harmed. And, I contend, this is sufficient to make what we do to them morally relevant, and for it to be incumbent on us not to cause or allow such harms to occur.

In some respects, these ideas could be compared to the idea of the 'knowledge of the heart' espoused in Gnostic teachings.¹¹⁵ This is the 'heretical' belief that one can, independently of epistemological validation or external authority, know ultimate truths through interior revelation; one can be, literally, a 'knower' in one's own right and guide others to such knowing also. (The 'knowability' of moral good is a key question in natural law theory, which will be discussed further in the final chapter.)

There is I think a wider and deeper dimension to this convergent set of ideas over and above their direct concern with animal ethics, which reifies the individual compassionate response to animals into a kind of master principle, a universal way of grasping the reality of the other. They offer not only a systematic deconstruction of the objectifying and masculinist shell of *Reason* implicated in the Fall, but also seem (in my view) tacitly to acknowledge the need to realign human consciousness with its pre-fallen, 'holy' state of subjective connectedness to all life.¹¹⁶ This may be what Donovan means when she talks of a greater focus on the 'unquantifiable' dimension of reality – 'the subjective, the living spirit'.¹¹⁷

In focusing on the subjective, compassionate response, the schools of thought surrounding care ethics and eco-feminism might be regarded not only as an emergent branch of philosophy but, appositely, as a resurgence of the feminised-matristic values that seemingly prevailed before the advent of later 'fallen' cultures whose norms continue to underpin the rationalistic objectification and exploitation of nature, and nonhuman beings in particular. In this sense it not only posits a change to our mode of thinking but points to a revolutionary way of being in the world.

¹¹⁵ For a good introduction, see Tobias Churton, *The Gnostics* (London: Weidenfeld and Nicolson, in association with Channel Four and Border TV, 1987). Notably, the Gnostic beliefs concerning the soul or spirit being trapped in an alien world of matter may have influenced Existentialist thinking. Ibid., pp.36-38.

¹¹⁶ Donovan, 'Sympathy And Interspecies Care', in *Critical Theory*, ed. by Sanbonmatsu, p.281.

¹¹⁷ Ibid., pp.277-78.

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Chapter 10

Natural law theory and animal ethics

I have referred to natural law theory in various contexts throughout this thesis, and what now follows is a selective discussion of some fundamental concepts within that theory, leading on to arguments as to why a modified natural law approach could be particularly relevant to a range of issues in modern animal ethics.

The particular advantage of the natural law approach is that, rather than envisaging a moral order as something incidental to the phenomenal world, it locates ethics within the metaphysical principles that govern the operation of that world, thus providing the foundations for the kind of universal ethical-metaphysical system envisaged by Aquinas,¹ or what Schopenhauer described as ‘the interconnectedness of nature, morals and the beautiful’.²

Given the avowedly anthropocentric nature of the classical theory, it may seem somewhat counter-intuitive, even quixotic, to attempt to bring nonhuman animals into the equation in any significant way. However, my view is that the basic premise of natural law theory is sound, but that its historical association of purportedly universalistic cosmic principles exclusively with human affairs, to the detriment of all other life forms, is ill-conceived and incoherent.

If one thinks of natural law theory in relation to nature as a whole, it can be adapted (or reclaimed) as a useful and holistic paradigm for a broad moral theory rooted in realism, with a modified role for reason alongside intuitive and emotive approaches (such as those already outlined in relation to sympathy theory) and various other aspects of animal ethics discussed in this work. This does not involve trying to ‘force fit’ animal ethics into the conventional theory; rather, it challenges the basis upon which they were excluded from that theory in the first place.

Since part of this thesis concerns moral aspects of human behaviour, some of this chapter will focus on the human aspects of natural law, and there will be some general exposition to begin with. However, to be clear, it does not (given the vast scale, scope and complexity of the subject)³ purport to be a full account of

¹ John Finnis, *Natural Law And Natural Rights* (Oxford and New York: Oxford University Press, 1980), p.35.

² Arthur Schopenhauer, *The Basis Of Morality*, tr. by E. F. J. Payne (Jovian Press, 2017), Part I, Chapter I, para. 6. Kindle ebook.

³ Finnis describes it variously as ‘highly elliptical, scattered and difficult to grasp’. Finnis, *Natural Law*, p.46.

conventional natural law theory⁴ (abbreviated hereafter to NLT) but is concerned only with those aspects of it which seem directly pertinent to this thesis.

Many of the key issues discussed individually in previous chapters in this thesis are directly relevant to this current discussion of natural law theory, and thus (to avoid duplicating arguments) it will therefore be necessary to refer back to them quite frequently in this chapter. However, to avoid undue distraction, not every point will be cross-referenced in this way.

Natural law principles

Natural law theory is most commonly associated with Thomas Aquinas – whose account occupies (mainly) a section [*Prima Secundae* (I-II), Question 94, in six articles] within *Summa Theologica* (C 1375).⁵ In elementary terms, it concerns human flourishing - our recognising and realising the goods proper to the fulfilment of human *telos* in accordance with the laws of nature (which reflect divine law) - and our capacity to determine which actions serve (or obstruct) the realisation of good. The fundamental principles are readily ‘knowable’ by competent adult humans; while they can be misunderstood, or distorted by extraneous factors, they remain true nonetheless, like mathematical principles.⁶

The elementary and simple premise is that we must do good and avoid evil.⁷ In this regard, good and bad acts are categorically different, not part of a ‘hot-cold’ spectrum: thus no action should obstruct the fulfilment of basic goods, which means that bad acts cannot be employed to good ends.⁸ Importantly, within NLT the good is prior to the right: thus the idea of ‘right’ or ‘wrong’ depends on whether or not an action brings about good.⁹

While NLT in its dominant form was devised mainly by Aquinas (and developed by later scholastic philosophers), the essential principles can be seen in earlier thinkers such as the Stoics, and Aristotle was a major influence, particularly in relation to his distinction between *nomos* (changing laws and social conventions)

⁴ Within NLT a distinction is made between ‘paradigmatic’ versions of the theory (essentially, the theistic account represented by Aquinas) and ‘non-paradigmatic’ (including non-theistic) versions, which deviate from that position. See Mark Murphy, ‘The Natural Law Tradition In Ethics’, *The Stanford Encyclopedia of Philosophy*, 2019, Section 1:4 <<https://plato.stanford.edu/entries/natural-law-ethics/>> [Accessed 12 October 2023].

⁵ Murphy, ‘Natural Law Tradition’, Section 1:1.

⁶ Finnis, *Natural Law*, pp.23-24. See also Murphy, ‘Natural Law Tradition’, Section 1:2.

⁷ Murphy, Section 1:3.

⁸ Finnis, *Natural Law*, pp.111-23.

⁹ Murphy, ‘Natural Law Tradition’, Section 1:3.

and *phusis* (unchanging reality, nature), within which Aristotle also envisaged an unchanging normative order.¹⁰

For Aquinas, natural law is ultimately derived from eternal law – i.e., the principles underlying the law-like nature of the universe.¹¹ Essentially, NLT identifies a correspondence between the seemingly rational ‘orderliness’ (or *ratio*) of the cosmos and the rational capacity of the human mind.¹² This parallels Aristotle’s idea of mind (*nous*) in nature itself, and of humans in some sense sharing in the divine *nous*,¹³ thus reflecting God’s own understanding.¹⁴

The Stoics also regarded human nature as an integral part of the natural order, which they conceived as the outworking of the ‘superintending universal intelligence’.¹⁵ (Within NLT, ‘natural’ is widened to embrace pre-rational and rational aspects.)¹⁶ Thus, humans are seen as a microcosm of nature, encompassing both reason and the organic world.¹⁷ In some respects this parallels Kant’s differentiation between phenomenon (the world, desires and experience) and noumenon (mind, reason and ideas), with humans overlapping both.¹⁸

On this basis, NLT posits an equivalence between nature, rationality and morality, with rationality also being the governing principle of human life,¹⁹ which means that to realise the basic goods appropriate to our nature (through reason) is to fulfil our humanhood in accordance with *phusis*.²⁰ The essential idea here (which can be found in Stoical thought) is that to act for good means acting in accordance with nature, not against it.²¹

¹⁰ Stephen Buckle, ‘Natural Law’, in *A Companion To Ethics*, ed. by Peter Singer (Malden, MA; Oxford; Victoria: Blackwell Publishing, 1993), p.162. See also Murphy, ‘Natural Law Tradition’, Section 1:4.

¹¹ Murphy, ‘Natural Law Tradition’, Section 1:1.

¹² Finnis, *Natural Law*, p.381 and p.376.

¹³ *Ibid.*, p.393, p.395 and p.399.

¹⁴ Jonathan Berg, ‘How Could Ethics Depend On Religion?’, in *A Companion To Ethics*, ed. by Singer, p.529. See also Finnis, *Natural Law*, pp.394-95 and p.399.

¹⁵ Murphy, ‘Natural Law Tradition’, Section 1:4; Finnis, *Natural Law*, p.377; Buckle, ‘Natural Law’, in *A Companion to Ethics*, ed. by Singer, p.163.

¹⁶ Celia Deane-Drummond, ‘Natural Law Revisited: Wild Justice And Human Obligations For Other Animals’, *Journal Of The Society Of Christian Ethics*, 35:2 (2015), 159-173 (p.162).

¹⁷ Professor Hiroshi Takahashi, ‘What Can Natural Law Theory Get From Environmental Ethics?’, *THEMES, revue de la B.P.C.*, III: *Mise en ligne* (April 2012), Section 2:4 <<https://www.philosophiedudroit.org/Hiroshi%20Takahashi,%20environmental%20ethics.htm>> [Accessed 3 November 2023]. See also Buckle, ‘Natural Law’, in *A Companion to Ethics*, ed. by Singer, p.163.

¹⁸ Peter Baron, *Kant And Natural Law: Deontological Ethics*, 2nd edn. (Active Education Ltd, 2016), pp.26-30. This is an introductory text for students but provides a lucid and concise general guide to the subject.

¹⁹ Finnis, *Natural Law*, p.35.

²⁰ *Ibid.*, p.35 and p.103.

²¹ *Ibid.*, p.375.

Likewise, for Aquinas, virtue accords with nature and vice opposes it.²² Thus, a wrong action violates nature in some way, but it also, by that fact, goes against reason.²³ For the 16th/17th century scholastic philosopher and exponent of NLT, Francisco Suarez, to 'follow nature' is to do God's will;²⁴ the implication being that to do otherwise is to exist in utter disorder.²⁵ One could interpret this to indicate the condition of moral wholeness or health, suggested, I think, in Anscombe's analogy between a morally normal human being and one who has 'the right number of teeth'.²⁶

It will be obvious from the above that traditional (paradigmatic) NLT is envisaged in expressly theological terms. It assumes the existence of God²⁷ and that moral knowledge depends on knowledge of God.²⁸ A similar belief was recognised by Socrates, as Joel Goldsmith notes, in the idea that God's voice is known by His Law. Thus, in effect, God *is* Law.²⁹

However, this does not necessarily mean that a natural law account is intrinsically theistic, nor that it is incompatible with secular thought. Celia Deane-Drummond refers to Jean Porter's approach in *Nature As Reason* – which 'defends a naturalistic ethic but [...] within a theological perspective in the context of contemporary philosophical and scientific reasoning'.³⁰ Two notable proponents of a non-paradigmatic natural law approach are Philippa Foot and Michael Moore.³¹ Moreover, certain members of the scientific community have broached or openly cited the essential idea of mind in the cosmos, or the cosmos as mind.³²

²² Finnis, *Natural Law*, p.35.

²³ Buckle, 'Natural Law', in *A Companion To Ethics*, ed. by Singer, p.165.

²⁴ Finnis, *Natural Law*, p.49.

²⁵ *Ibid.*, pp.89-90.

²⁶ G. E. M. Anscombe, 'Modern Moral Philosophy', *Philosophy*, 33:124 (1958), 1-19 (p.14) <<https://www.jstor.org/stable/3749051>> [Accessed 2 May 2022].

²⁷ Murphy, 'Natural Law Tradition', Section 1:2.

²⁸ Berg, 'How Could Ethics Depend On Religion?', in *A Companion To Ethics*, ed. by Singer, p.529. See also Finnis, *Natural Law*, p.48.

²⁹ Joel S. Goldsmith, *Living The Infinite Way* (Florida: Acropolis Books, 1961), Chapter 5, para. 1. Kindle ebook.

³⁰ Deane-Drummond, 'Natural Law Revisited', p.162.

³¹ In the sense of not regarding natural law as something given by God. Murphy, 'Natural Law Tradition', Section 1:4.

³² The noted physicist and mathematician, Sir James Jeans, for instance, said, 'The universe looks more and more like a great thought than a great machine'. James Hopwood Jeans, *The Mysterious Universe*, referenced in *goodreads* <<https://www.goodreads.com/work/quotes/9054153-the-mysterious-universe>> [Accessed 10 October 2023].

Practical rationality

Aquinas believed that all living beings and the rest of nature are passively subject to eternal law 'by divine providence',³³ but only humans have the necessary cognitive capacity to grasp and act upon natural law as free agents, which is reflected in his definition of natural law as 'the participation of the eternal law in rational creatures'.³⁴ As he sees it, nature is intelligible but only humans are intelligent.³⁵ In this regard, Aquinas apparently assumes that nonhuman animals – while distinguished technically from 'contingent nature' (i.e., everything else) – lack both reason and consciousness.

This does not mean that natural law is imprinted into the firmament, so to speak,³⁶ nor is it a complete set of moral rules for all situations. Rather, it pertains to certain basic principles which are realised through the innate (exclusively human) faculty of practical rationality.³⁷ And through this faculty the precepts are both universally knowable and universally binding.³⁸ (I will go on to explain why I believe that both of these statements are problematic.) Importantly, against the Kantian notion of reason as the source of moral principles, reason plays an enabling 'prudent legislator' role, governing our interpretation of the principles,³⁹ acting, in a sense, 'under licence' (my interpretation) to eternal law.

Natural law also provides the moral basis of legal duties and prohibitions, and thus 'true law' accords with nature – a view which Aquinas shared with Cicero.⁴⁰ Similarly, Hobbes extended the principle of human bondage to the laws of nature (as part of divine law)⁴¹ to create a basis for civil law.⁴² While this gives NLT an essentially deontological profile, its concern with outcomes in terms of realising goods means that it has some aspects in common with consequentialism.⁴³ However, it is recognised as a form of realism: i.e., moral values are not devised by

³³ Thomas Aquinas, *Summa Theologica*, tr. by Fathers of the English Dominican Province (Coyote Canyon Press, 2010), Part I-II, Q 93, Article 5 (reply to Objection 3). Kindle ebook.

³⁴ Murphy, 'Natural Law Tradition', Section 1:1 and Finnis, *Natural Law*, p.398.

³⁵ Finnis, *Natural Law*, p.400.

³⁶ Buckle, 'Natural Law' in *A Companion To Ethics*, ed. by Singer, p.165.

³⁷ Murphy, 'Natural Law Tradition', Section 1:1 and Section 1:3.

³⁸ Ibid., Section 1:2.

³⁹ Takahashi, 'Environmental Ethics', 2:5.

⁴⁰ Buckle, 'Natural Law', in *A Companion To Ethics*, ed. by Singer, p.164.

⁴¹ Murphy, 'Natural Law Tradition', Section 1:4.

⁴² This rests on a distinction between human law founded on natural law moral principles and laws reflecting legal conventions. See Brian Leiter and Michael Sevel, 'Thomas Hobbes', *Britannica* <<https://www.britannica.com/topic/philosophy-of-law/Thomas-Hobbes>> [Accessed 5 January 2024]. This idea is recognised in modern legal theory as the 'overlap thesis'. See Kenneth Himma, 'Natural Law', *Internet Encyclopedia of Philosophy* <<https://iep.utm.edu/natlaw/>> [Accessed 12 December 2023].

⁴³ Murphy, 'Natural Law Tradition', Section 1:3.

humans but are ‘there’ to be recognised, like mathematical principles.⁴⁴ This accords with the abolitionist orientation of this thesis, which, as Gary Francione says, is also a form of moral realism, in which the non-harm of animals is a baseline moral imperative.⁴⁵ (A similar view was espoused by Donald Watson, who believed that non-veganism was a violation of natural law.)⁴⁶

While NLT itself is not a system of direct edicts or imposed ‘regulations’ as such, Aquinas thought that moral codes such as the Ten Commandments derive from the primary ‘self-evident’ principles⁴⁷ amenable to practical reasonableness, and sought to identify certain primary and secondary precepts in line with these principles, thus integrating basic goods and factual premises together.⁴⁸ The most basic primary precepts are then associated with secondary precepts which work towards their fulfilment.⁴⁹

This has been dubbed the ‘master rule’ approach, in which the basic precepts provide the general foundations for the creation of further (and subordinately related) rules appropriate to particular moral situations.⁵⁰ It has also been suggested that Aquinas had in mind an overarching master principle of ‘love your neighbour as yourself’, which in its biblical context encompassed all other laws

⁴⁴ Finnis, *Natural Law*, p.24. See also Jonathan Dancy, ‘Intuitionism’ in *A Companion To Ethics*, ed. by Peter Singer, p.412 and p.417.

⁴⁵ Gary L. Francione and Anna Charlton, *Animals Rights: The Abolitionist Approach* (Exempla Press, 2015), Principle 3, Section 5, para. 15. Kindle ebook. However, again, strictly speaking, within NLT, ‘right’ or ‘wrong’ pertain to the realisation (or not) of the good.

⁴⁶ Donald Watson was the founder of the Vegan Society in 1944. Francione and Charlton, *Animal Rights*, Principle 3, Section 2, para. 6.

⁴⁷ Finnis, *Natural Law*, p.101. ‘Self-evident’ is taken to mean something that can be understood on the basis of its terms, rather than via proof through argument (although some things are only self-evident to the wise). Finnis, pp.31-32.

⁴⁸ Murphy, ‘Natural Law Tradition’, Section 2:4.

⁴⁹ The primary precepts are sometimes arranged schematically under the ‘POWER’ acronym, together with general secondary precepts. (Different sources express them differently, in more or less detail, so the examples below are indicative rather than definitive.) See Peter Baron, *Kant And Natural Law: Deontological Ethics*, 2nd edn. (Active Education Ltd, 2016), pp.80-81.

Primary

Preserve life
Ordered society
Worship God
Education
Reproduction

Secondary

Do not kill the innocent
Respect the rule of law
Pray and go to church
Pursue knowledge and truth
Do not abort or use contraception

⁵⁰ Murphy, ‘Natural Law Tradition’, Section 2:4. From Murphy’s account, ‘rules’ suggest operational criteria or ‘tests’ applied to the relevant situations, rather than laid-down regulations or strictures as such.

and teachings.⁵¹ Indeed, the Church itself followed Aquinas in declaring as wrongful any killing of the innocent.⁵²

There is no logical justification for the exclusion of innocent nonhumans from that particular principle, and there is a clear case for their prioritisation here (see Chapters 4 and 5). However, Aquinas' position is avowedly anthropocentric: 'life' automatically refers to *human* life. It assumes intrinsic value differences between the respective capacities of humans and animals and flatly denies any moral significance to the latter. Aquinas justifies this on the basis of Aristotle's view of nature as a hierarchy – where the inferior serves the superior – to argue that we are entitled to use animals however we wish.⁵³ (I will come back to this issue further on.)

Knowing the good

The recognition and realisation of natural law principles in human life can be seen in the context of three main perspectives on the nature of the good: for Aristotle it is the fulfilment of the *telos* or 'completion' of a particular being; for Hobbes it is identified with what is desired and also with self-preservation; and for Plato it exists as an ideal to which human fulfilment is directed, but is but not limited or defined in relation to it.⁵⁴ As human beings, our function is to realise good in the world, but not to achieve a notional 'quantity' of good in a calculated, utilitarian sense.⁵⁵ And while NLT allows for self-interest (and indeed self-priority), this must not be at the expense of the rights of others.⁵⁶

While proponents of NLT have compiled 'catalogues' of basic human goods, these vary and there is no official consensus (which seems, ironically, to undermine their 'knowability'). Aquinas himself includes, for instance, life, procreation, knowledge and rational conduct; others, variously, have added things such as friendship,

⁵¹ John Finnis referenced by Murphy, 'Natural Law Tradition', Section 2:4. See also Finnis, *Natural Law*, p.108.

⁵² Along with non-procreative sexual acts, adultery, lying and blasphemy. See: Murphy, 'Natural Law Tradition', Section 1:3 and Finnis, *Natural Law*, p.124.

⁵³ Andrew Linzey, 'Why Animal Suffering Matters Morally' (chapter), in Andrew Linzey, *Why Animal Suffering Matters: Philosophy, Theology, And Practical Ethics* (Oxford and New York: Oxford University Press, 2009), 2014), p.13. [Oxford Scholarship Online, 2014] <<https://doi.org/10.1093/acprof:oso/9780199351848.003.0002>>.

In this regard, Aquinas defers to Aristotle rather than the Bible, which speaks of God's concern for all creation, and His Covenant with all creatures. Linzey, 'Why Animal Suffering Matters Morally', p.16. There is also the stipulation of a vegetarian diet for humans in the biblical Book of Genesis and the anticipated reconciliation of all creatures in a non-violent New Earth described in the Book Of Revelation.

⁵⁴ Murphy. 'Natural Law Tradition', Section 2:1.

⁵⁵ Finnis, *Natural Law*, p.111 and p.113; and Murphy, 'Natural Law Tradition', Section 1:3.

⁵⁶ Finnis, *Natural Law*, pp.107-08.

family, community, justice, health, play and aesthetic pleasure. Some, but not all, include religion as a basic good.⁵⁷ This association of NLT with the ordinary goods of human life rather than the realisation of some higher *quality* of good in its own right⁵⁸ makes the connection (if one exists) between fulfilling such goods and possessing virtue a matter of debate.⁵⁹ The issue here seems to relate to Philippa Foot's distinction between good or goods and *goodness*.⁶⁰

Central to the realisation of true human goods is the primary criterion of need – i.e., what is necessary and proportionate in relation to the common good.⁶¹ This links into the idea of 'Aristotelian necessities' (i.e., goods specific to the particular needs of individual types of being or species).⁶² (See also the discussion of 'vital needs' in Chapter 1.)

Within the theory, our basic goods are disclosed by what we tend to lean towards or avoid, in keeping with our nature. (Again, this is related to human affairs, although Pufendorf showed that the same natural principle applies to animals too.)⁶³ This is sometimes referred to as 'inclinationism', which overlaps with the concept of 'derivationism', i.e., goods may be derived from a metaphysical study of human nature.⁶⁴ The problem here, however, (and Aquinas himself acknowledges the issue) is that humans may often incline towards things that deviate from our natural goods. (I will come back to this point further on.)

On this basis (in my interpretation) if we satisfy 'faux-needs' or arbitrary wants associated with harms, we act contrary to the good and thus violate natural law. One could, I think, argue decisively against human pseudo-carnivorism on this basis. If humans are not natural carnivores (which can be determined empirically), then the claim (common to Aristotle, Aquinas and Kant and others) that animals are 'made for' humans⁶⁵ is inherently false – for they *cannot* be made for us if our use of them in itself deviates from nature. This would also support the negative/correlational rights argument that I outlined in Chapter 1.

⁵⁷ Murphy, 'Natural Law Tradition', Section 2:3.

⁵⁸ Ibid., Section 2:2.

⁵⁹ Ibid., Section 2:4.

⁶⁰ I have greatly simplified the issue here to make the general point. See Philippa Foot, *Natural Goodness* (Oxford: Oxford University Press, 2001), pp.36-51.

⁶¹ Finnis, *Natural Law*, p.174.

⁶² Foot, *Natural Goodness*, p.15 and p.43.

⁶³ This refers to Samuel Pufendorf, '*Law of Nature And Nations*' (1688) discussed by Andrew Linzey in 'Why Animal Suffering Matters Morally', p.23.

⁶⁴ Murphy, 'Natural Law Tradition', Section 2:2.

⁶⁵ Baron, *Kant And Natural Law*, p.58.

A Humean perspective

One could draw a cautious parallel between the elementary premise of inclinationism, i.e., that we naturally understand what is good (to be pursued) and what is bad (to be avoided),⁶⁶ and Hume's argument that we derive our notions of virtues or vices from positive or negative feelings or sentiments rather than reason.⁶⁷ However, for Hume, those sentiments do not pertain to the recognition of 'really existing' moral principles as they are thought to do within NLT.⁶⁸

Nevertheless, Hume does consider that there are natural virtues 'impelled by instinct', which are different from the 'artificial' interests and obligations of justice.⁶⁹ This sense of common humanity or benevolence⁷⁰ concerns what we 'get [morally] disturbed about'⁷¹ and is associated with certain generally accepted ideas of vice and virtue that arouse passions in us. At the same time, he considers that morality 'implies *some* sentiments common to all mankind'.⁷² Thus, basic virtues such as mercy and generosity are generally seen as good qualities throughout human societies.⁷³ Schopenhauer similarly considers that humans generally grasp the basic principles of 'right and wrong' – including members of undeveloped societies.⁷⁴

Elsewhere, Hume also likens moral feelings to 'taste' (in the sense of discernment): they do not correspond to actual, inherent qualities of objects but are more like our sensory apprehension of colours or sounds.⁷⁵ These feelings, which we then associate with virtue, arise from 'the original fabric & formation of the human mind', which is naturally able to receive them.⁷⁶

⁶⁶ Finnis, *Natural Law*, p.403.

⁶⁷ David Hume, *A Treatise Of Human Nature* (Wentworth Press, 2016), Book II, Part I, Section VII, paras 3–5. Kindle ebook; David Hume, *An Enquiry Concerning The Principles Of Morals*, (<www.WealthOfNation.com> 2015) Appendix 1, para. 9. Kindle ebook.

⁶⁸ Hume, *Enquiry*, Section 1, paras 4-5; and Hume, *Treatise*, Book II, Part I, Section VII, para. 6. This also pertains to the 'naturalistic fallacy', identified by Hume, discussed in Chapter 6 of this thesis. See also Finnis, *Natural Law*, pp.42-43.

⁶⁹ Robert Shaver, 'Hume On The Duties Of Humanity', *Journal Of The History Of Philosophy*, 30:4 (1992), 545-556 (p.547) published by John Hopkins University Press <<https://doi.org/10.1353/hph.1992.0083>>.

⁷⁰ Hume, *Enquiry*, Section V, Part II, para. 4; Section VI, Part II, para. 14; and Section V, Part II, paras 33-34.

⁷¹ Bernard Williams, *Morality: An Introduction To Ethics*, Canto edn. (Cambridge and New York: Cambridge University Press, 1993), p.17.

⁷² Hume, *Enquiry*, Section IX, Part I, para. 5.

⁷³ *Ibid.*, Section II, Part I, para. 1.

⁷⁴ Arthur Schopenhauer, *The Basis Of Morality*, Part III, Chapter VI, para. 1 and para. 8. Kindle ebook.

⁷⁵ Hume, *Treatise*, Book III, Part I, Section I, para. 25; and Book III, Part III, Section I, para. 14; and Hume, *Enquiry*, Section I, para. 4.

⁷⁶ Hume, *Enquiry*, Section 1, para. 5. By comparison, Aquinas believes that we discern good and bad through impressions in us of the divine light. See Finnis, *Natural Law*, p.402.

Puzzlingly, Hume says on one hand that morality has no foundation in nature, while on the other hand moral *feelings* are facilitated by ‘a primary constitution of nature’.⁷⁷ This seems to imply that our moral perceptions (responses) occur, but without some objective referent (stimulus) in nature. On the face of it, this does not seem to make sense: there would, for instance, be no evolutionary reason for the human eye to exist in a dark world where there was nothing to see; a sense, surely, senses something - it does not arbitrarily invent it.⁷⁸

However, as I concur that morality is not directly derived from reason, I am not disagreeing with Hume in principle, at least in relation to our ordinary ‘common-sensory’ apprehension of right and wrong.⁷⁹ Indeed, the main reason for citing Hume here is that his identification of some form of natural and innate ‘moral feeling faculty’ (my phrase) not only frees us from the equation of morality with rationality but also (in my view) points towards a similar natural faculty in nonhumans – a point which I will come back to presently.

Nevertheless, there are times when our senses are offended by something which is not just very unpleasant but actually toxic – and may even trigger the gag reflex. And this, I suggest also parallels a kind of ‘moral gag reflex’ which we experience in response to witnessing atrocities, bloodshed, violence and suffering, as opposed to mere disapproval, which seems to be implied by the relativistic notion of ‘taste’. Sometimes something tastes bad or makes us feel bad (morally upset) because nature wants us to know that it really *is* bad.

Knowing the bad

To enlarge on the point above, concerning things we instinctively avoid, it makes sound evolutionary sense for nature to prioritise protection from harms over enjoyment of goods, and to calibrate the senses of sentient beings accordingly. Thus, even if we are confused or conflicted over goods (or rather *ideas* of goods), we have less difficulty with manifest harms or ‘bads’. A person undergoing torture, for instance, would be unlikely to perceive the situation as anything but dreadful. (‘There was never yet a philosopher that could endure the toothache

⁷⁷ Hume, *Treatise*, Book II, Part I, Section VII, para. 3. and para.5. (Hume does not directly juxtapose these ideas as I have done here.)

⁷⁸ Some may want to argue the evolutionary point here: i.e., while some creatures that evolve in virtual darkness do not have vision, others manage to ‘see’ in some other way or develop extraordinarily sensitive eyes. See, for instance, Siobhan Durphy, ‘Deep-Sea Fish Living In Near Darkness Have Evolved Incredible Vision’, *European Scientist* (2019) <<https://www.europeanscientist.com/en/research/deep-sea-fish-living-in-near-darkness-have-evolved-incredible-vision/>> [Accessed 6 January 2024].

⁷⁹ Hume’s comments above are remarkably consonant (in my view) with the relatively recent discovery of ‘mirror neurons’ in the brains of certain species. The pro-social function of such neurons could be interpreted to support the idea of the mind being both the source and recipient of moral-benevolent feelings.

patiently’, as Shakespeare wryly observed.)⁸⁰ The same would naturally apply to a nonhuman being in a comparable situation. (See Chapter 2.)

At the same time, if we recognise harms, we must also know their corresponding goods. If one is starving, for instance, it is ‘self-evident’ that one needs to eat. On this footing, ordinary goods reveal themselves without the need for a theory or even a concept of good (otherwise animals could not recognise them). If there is ever any room for doubt, we need only identify harms (‘bads’) and infer their opposite, as one might work out where North is in an unfamiliar landscape.⁸¹ This, I suggest is why it is easier for us to grasp the negative principle of non-harm (*ahimsa* or nonmaleficence) as a basic moral precept, rather than inductive notions of ‘pro-good’.

In reality, however, the simple navigation aid above seems not to work reliably in practice. It may be that many humans are congenitally unable to distinguish between true and false goods, or even ‘goods’ (desires) which are actually harms. Such issues seem not to arise in ‘irrational’ wild-living nonhumans, who – under natural governance – are not similarly conflicted or self-sabotaging over the fulfilment of their own interests.⁸²

Intuitionism

A number of ideas associated with NLT accord strikingly with modern Intuitionist theory, to the extent that they seem to be trying to account for the same phenomenon and the same issues around knowing the good. Intuitionism, like NLT also credits humans with an innate moral faculty or sense that enables us to grasp moral ‘facts’ about a given situation and to discover the relevant moral principles, not through philosophical speculation but through ‘intuitive induction’.⁸³

Notable pioneers in this field were W. D. Ross and H. A. Pritchard, known as ‘rational intuitionists’, reflecting their belief that the moral faculty is closer to reason than to a special kind of sense – an idea which was favoured by certain of

⁸⁰ William Shakespeare, *Much Ado About Nothing*, Act V, Scene 1, 35-36. *The Illustrated Stratford Shakespeare* (London: Chancellor Press, 1987), p.138.

⁸¹ In the analogy, Magnetic North could correspond to natural law (i.e., it exists in nature), while human law would correspond to True North, which is (regardless of accuracy) a conceptual entity, not an intrinsically natural phenomenon – but this is open to debate.

⁸² This seems to accord with a point made by Philippa Foot. See Philippa Foot, *Natural Goodness* (Oxford and New York: Oxford University Press, 2001), p.56.

⁸³ Jonathan Dancy, ‘Intuitionism’, in *A Companion To Ethics*, ed. by Singer, p.412. and p. 415. See also Jonathan Dancy, ‘An Ethic Of Prima Facie Duties’ in *A Companion To Ethics*, ed. by Singer, p.224.

their predecessors.⁸⁴ They built on the work of G. E. Moore, who thought we could intuitively recognise good ends, but (unlike NLT) these are not ‘self-evident’: intuition itself is not infallible,⁸⁵ and so we cannot just *know* the right thing to do, but must work out how best to apply our intuition to particular cases (see Chapter 6).⁸⁶ Here, Henry Salt argues for the centrality of the intuitive capacity, which works alongside, but is not secondary to reason.⁸⁷

On Ross’s account there are *prima facie* duties or obligations (including non-maleficence) which (again, like NLT) are evident to persons of ‘developed moral consciousness’. While humans vary in their moral and intuitive acuity, this does not affect the validity of the underlying principles.⁸⁸ At the same time, for Ross, our intuitive ideas about the ‘moral situation’ that we are facing are nonnatural – i.e., are not intrinsic to it.⁸⁹ Again, somewhat like NLT, we do not derive readymade moral ideas from nature, but we identify the principles involved through the combined, two-step intuitive-rational process itself.

A limited analogy could be drawn here with early sonar technology: a boat emits signals to take echo soundings (intuitions) from a deep and murky lake and picks up the return signals to detect what lies underneath. The readings can be decoded by those with the appropriate expertise (reason). The incoming ‘ping’ signal is not directly created by the object itself, but by the sonar equipment that sent it, which then detects the disturbance of that signal as it encounters the object. (In this respect, the analogy seems to offer serendipitous support for my ‘self-inducing response’ interpretation of Hume indicated above, except that for Hume there would be no ‘out there’ object to detect.)

However, morality is not merely a matter of interpreting data but of applying that knowledge to morally correct actions. Aquinas refers to the *imperium*: the moment when one decides on a moral course of action and understands why one is doing so.⁹⁰ Again, there is a Humean echo here, in that the moral response involves making the dynamic link between knowing the right thing to do and the impulse to act upon it. For Hume, moral beliefs in themselves cannot provide that

⁸⁴ W. D. Hudson, *Modern Moral Philosophy*, 2nd edn. (Basingstoke and London: Macmillan, 1983), p.82.

⁸⁵ *Ibid.*, pp.82-83.

⁸⁶ *Ibid.*, p.88.

⁸⁷ Henry S. Salt, *Animals’ Rights Considered In Relation To Social Progress* (New York: Macmillan & Co., 1894), pp.90-91. *Internet Archive* ebook <<https://archive.org/details/animalsrightsc00salt/page/n7/mode/2up>> [Accessed 28 October 2023].

⁸⁸ Hudson, *Modern Moral Philosophy*, pp.90-92.

⁸⁹ *Ibid.*, pp.65-66.

⁹⁰ Finnis, *Natural Law*, pp.338-39.

impulse: something must galvanise us to act for good (of others) – an impulse that he calls ‘natural sympathy’.⁹¹

Our natural sympathy can be aroused by outrage at others being unjustly/badly treated – even fictional characters.⁹² This implies that we are not necessarily responding to being harmed personally, but to a general idea of wrong in itself. Witnessing harms to others engages something deeper than merely registering an infraction of an abstract rule. As Francione observes, while we cannot objectively ‘prove’ that it is wrong to harm a sentient being, we experience a kind of ‘moral intuition’ that it is a bad thing, which he thinks is allied to a sense of moral kinship.⁹³

Animals and self-governance under natural law

Against this, it is significant that Aquinas conspicuously avoids any mention of our natural and common, if selective, fellow feeling or ‘natural sympathy’ for nonhumans: they are simply off our moral radar (or sonar). However, I think that this is neither warranted by, nor consistent with natural law principles, for eternal law concerns ‘the common good of being as a whole’,⁹⁴ not just of one species. It is possible to recognise the distinctive character of human reason, but within the context of overall continuity between humans and other animals, which is entailed or ‘presupposed’ within a natural law account.⁹⁵ And, as Professor Hiroshi Takahashi says, while biotic entities or beings are not *literally* equal in a ‘vertically diverse’ hierarchy, they enable the perfection of an interdependent whole: meaning, I think, that equality does not determine their inherent and intersubjective value.⁹⁶

On this basis, natural law theory can be considered in relation to a graduated account of capacities within an evolutionary framework,⁹⁷ and here Deane-Drummond points to certain parallels between the regulatory function of animal societies and our own,⁹⁸ including ‘wild justice’ (associated with the work of Bekoff and Pierce), which is premised on the idea of fairness, for instance in

⁹¹ Hume, *Treatise*, Book III, Part I, Section I, para. 23; and Book III, Part II, Section I, paras 6-7. See also Dancy, ‘Intuitionism’, in *A Companion To Ethics*, ed. by Singer, pp.415-16; Finnis, *Natural Law*, pp.41-42.

⁹² Hume, *Treatise*, Book II, Part II, Section VII, paras 3-4.

⁹³ Francione and Charlton, *Animal Rights*, Chapter 7, Section 2 (‘Moral Concern, Moral Impulse, And Logical Argument in Animal Rights Advocacy’), paras 3-4. Kindle ebook.

⁹⁴ Takahashi, ‘Environmental Ethics’, Section 2:5.

⁹⁵ To paraphrase the argument given by Deane-Drummond, ‘Natural Law Revisited’, p.169.

⁹⁶ Takahashi, ‘Environmental Ethics’, Section 2:3.

⁹⁷ Deane-Drummond, ‘Natural Law Revisited’, pp.160-61.

⁹⁸ *Ibid.*, p.164.

animal play and sharing behaviour.⁹⁹ Again, this is not to say that animals are moral in the human sense, nor that they even have a concept of moral value, but this does not undermine the evident parallels; nor does it (in my view) negate the validity of the ensuing actions in themselves.¹⁰⁰ As Sapontzis notes, something can be instinctive but still be the right moral choice.¹⁰¹ Equally, it can be rational and still be the wrong one.

Even if we (by convention) downgrade nonhumans' good instincts as 'proto-moral', it is then necessary to explain what other enabling mechanism is at work, if they really are inherently unlike humans. While Hume, for instance, thinks that animals have little sense of vice or virtue, he credits them with an innate biological sense (i.e., within the body itself), which enables them to experience human-like approbative emotions such as pride and humility, love, hate, and grief; and in general he thinks that animals' 'association of ideas and causes is similar to humans'.¹⁰² (Schopenhauer also credits animals with intuitive ideas and, therefore, intuitive motives.)¹⁰³

This is crucial. The strong implication is that, if such cognitive-emotive correspondences do exist (and modern animal studies increasingly indicate that they do), it is only a matter of consistency to argue for an underlying emotive-instinctual capacity which forms the true and primal basis of a kind of 'felt' moral intuition common to many species (including humans), rather than some special form of 'moral rationality' peculiar to one single species.

Indeed, if a common 'organismic' moral instinct is implicated in (and ultimately derived from) elementary *pre-moral* principles,¹⁰⁴ I would argue that we are confusing the issue by insistently attributing it to some mysterious, quasi-magical form of reason. If this is the case, it is plausible that we might obtain a purer understanding of what is really at work, not by observing our own variable predilections and norms but by sympathetically studying how nonhuman animals naturally respond to what we would recognise as 'moral situations' in the human world.

Various examples could be used here, but a memorable instance is the astonishing co-operation and orderliness among Emperor penguins in their collective self-protection against extreme cold during Antarctic blizzards – a phenomenon

⁹⁹ Deane-Drummond, 'Natural Law Revisited', p.166.

¹⁰⁰ In Andrew Linzey's phrase, Aristotle 'confuses natural hierarchy with moral hierarchy'. Linzey, 'Why Animal Suffering Matters Morally', p.13.

¹⁰¹ S. F. Sapontzis, *Morals, Reason, And Animals* (Philadelphia: Temple University Press, 1987), pp.32-33.

¹⁰² Hume, *Treatise*, Book II, Part I, Section XII, paras 3, 5, and 7. See also footnote 79.

¹⁰³ Schopenhauer, *The Basis Of Morality*, Part II, Chapter IV, paras 26-27.

¹⁰⁴ Baron, *Kant And Natural Law*, p.87.

featured in the 2005 documentary film, *March of the Penguins* (dir. Luc Jacquet). Thousands of penguins spontaneously form a huddle, many layers deep, for warmth, but continuously move along in a kind of spiral, so that those in the middle gradually migrate to the outer edge, and vice versa. Scientific field researchers have found that a kind of regular ‘wave’ runs through the entire huddle once or twice a minute, when the whole group simultaneously shifts along a couple of steps. In this fashion, all get an equal share of the warmth on the inside and an equal turn in the terrible cold on the outside.¹⁰⁵

If the penguins did not all follow the ‘rules’ to the letter, all would eventually perish. The extraordinary harmonisation required between individual (self) interest and the collective (other) interest, would, I think, be seen as a kind of ‘Blitz spirit’ heroism, were it observed in human beings. Certainly, humans are capable of teamwork and self-sacrifice to achieve joint goals, but it is debateable whether thousands of humans could ‘just do’ what the penguins do, and probable that it would require meticulous planning, and militaristic levels of organisation and control. For even our deeply embedded moral rules and norms still have to be enforced via some form of external authority and coercion to combat (as Aristotle recognised) ‘selfish and brutish’ human traits and to promote justice and fairness.¹⁰⁶

Crucially, what this illustrates is how natural law in relation to nonhumans involves internal restraint rather than externalised legal precepts.¹⁰⁷ This is implicit in respectivity – the ways in which a species is ‘contained’ by natural law rather than restrained by the Law; and while I think that this is how it governs nonhumans, in the case of humans it becomes a discrete sphere of activity, objectified by reason and externally imposed by the collective will.

The key question here is not just how we explain nonhuman morally-equivalent behaviour at all, but why (in the light of that phenomenon) humans alone should require the special faculty of reason to achieve essentially the same thing – and indeed why, if we are subjects of reason, we also need coercion to make us act reasonably. This is a fundamental and abiding problematic. To distil this into its

¹⁰⁵ See ‘Why Do Penguins Huddle Together To Keep Warm’, *ScienceAtlas* (21 November 2022) <<https://science-atlas.com/faq/why-do-penguins-huddle-together-to-keep-warm-physics/>> [Accessed 3 January, 2024]. I would strongly recommend viewing the inset video, which clearly shows the ‘wave’ described above.

¹⁰⁶ Finnis, *Natural Law*, p.261; Deane-Drummond, ‘Natural Law Revisited’, p.161.

Deane-Drummond also raises the related question of how, and by whom, rules are authorised and how that authority is regulated. Deane-Drummond, P.168. The problem of power in human society is that it takes on its own identity, presence, and force, over and above the societal imperatives that necessitated it in the first place. (This seems relevant to the discussion of fascism in Chapter 8.)

¹⁰⁷ Ibid., p.161.

simplest formulation: if animals can act in morally equivalent ways, either animals do possess reason, or morally equivalent behaviour does not depend on reason. (See Chapter 6.)

Many will nevertheless maintain that human moral behaviour is qualitatively distinct from animals' proto morality. Certainly, human moral situations may well be far more complex and open-ended. Humans are also able consciously to resolve our various moral perceptions and feelings into abstract-linguistic and portable concepts, such as 'fair', 'just', 'kind' and so on. But it is this that makes it appear that our special faculty of thinking has created them: by contrast, animals can respond appropriately to comparable proto-moral impulses ('inequity aversion' or defending others, for instance) apparently without needing to know what those feelings mean or relating them to abstract or codified sets of values.

To refer back to Chapter 6, I would characterise human morality as 'special' only in the sense that it is tailored to fit human beings - not as something necessarily higher, or as a universal model, but as a contingent facility (like a kind of emergency 'survival suit' or life-raft) which compensates for our dysfunctional separation from natural governance, enabling us to manage maladaptation. And here another fundamental, if semi-rhetorical question presents itself: not why nonhumans are not 'more moral' like humans, but why humans cannot simply be 'more proto-moral' like animals.

My view here is that, on the evolutionary-continuum view, there are degrees of (conscious) apprehension of the pro-social impulses that humans rationalise and resolve into normative moral principles – but that this differential capacity does not determine their intrinsic value, any more than their value is determined by their demonstration or lack of reason. On this basis, I think, Aquinas' exclusion of animals from natural law on grounds of the zero-sum property of practical rationality is unjustifiable and artificial. Nevertheless, the notion of reason as the source of moral value (rather than a mere faculty) persists within NLT and beyond.

Goods, wellbeing and natural rights

While many of the key philosophical issues considered below have been discussed separately in previous chapters, it is instructive to see how they are applied in Gary Chartier's thorough and efficient critique of John Finnis' claim that animals cannot participate in (consciously pursue) basic aspects of wellbeing and thus cannot possess rights.¹⁰⁸ Within NLT, rights derive from natural law: i.e., they are

¹⁰⁸ Finnis, *Natural Law*, pp.194-95; and Gary Chartier, 'Natural Law And Animal Rights', *Canadian Journal Of Law And Jurisprudence*, 23:1 (2010), 33-47 (p.35).

linked to the fulfilment of basic wellbeing, or good, defined by *telos*, which in turn depends on our human capacity for practical reasonableness.¹⁰⁹ Finnis considers that *human* rights exist (including ‘absolute rights’ such as the right not to be tortured) even if we cannot assert or defend them;¹¹⁰ yet he denies that such rights can be applied to animals.

As a matter of consistency, if practical rationality is limited to normally competent adults, it cannot be a property of congenitally incompetent humans, which means that they cannot participate in natural law, and thus cannot possess rights either. This pertains to the argument from marginal cases (see Chapters 3 and 4) which Finnis seeks to dismiss on the (frankly illogical and inconsistent) grounds that reason and rights are determined by species membership (as an aspect of intrinsic ‘human dignity’) rather than the measurable capacity of an individual member of any species. Essentially, the unfounded assumption is that nonhumans lack the relevant capacity by nature.¹¹¹

Finnis also claims that the only morally relevant capacity shared by humans and animals is sentience itself, but even here, he sees human sentience as qualitatively superior to ‘mere animal consciousness’, and thus not a shared basis for rights. Crucially, what Finnis seems to forget here is that sentience enables the common experience of suffering, which is a morally relevant criterion in relation to the wellbeing of both humans and animals – but not necessarily *the* defining criterion, for wellbeing (*viz*, life itself) can be harmed with or without sentience, as Chartier points out.¹¹²

Chartier argues that it is not essential for animals consciously to know the good is good in order actively to share in it.¹¹³ On this basis, animals can participate in aspects of their particular brand of wellbeing - it need not be validated in terms of the specific character or ‘content’ of human wellbeing. That is to say, they may have goods specific to their species which we would not recognise or be able to share in.¹¹⁴ Nevertheless, it is plausible that they also pursue and enjoy various goods of life (aside from strictly biological needs and sentience itself) that natural

¹⁰⁹ Chartier, ‘Animal Rights’, pp.40-41; Finnis, *Natural Law*, pp.205-06. See also Brenda Almond, ‘Rights’, in *A Companion To Ethics*, ed. by Peter Singer (Malden, MA; Oxford; Victoria: Blackwell Publishing, 1993), p.259.

¹¹⁰ Finnis, *Natural Law*, p.213 and p.225.

¹¹¹ Finnis (footnote), p.194; and Chartier, ‘Animal Rights’, pp.39-40.

¹¹² Chartier, ‘Animal Rights’, pp.36-37. (I have previously given arguments about supposed qualitative differences within sentience in relation to utilitarianism – i.e., one cannot argue for differential validation of the ‘quality’ of enjoyments. See Chapter 6 in this thesis.)

¹¹³ Chartier, ‘Animal Rights’, p.36.

¹¹⁴ *Ibid.*, pp.35-36.

law theorists would associate with humans, such as friendship, play, peace of mind, and, possibly, knowledge and aesthetic experience.¹¹⁵

Again, the ‘degree rather than kind’ approach comes into play, and Chartier argues for a continuum view of animal intelligence, wherein moral standing could be determined by minimal rationality (not necessarily defined in relation to human beings).¹¹⁶ While I disagree that rationality can be cited as a qualification for moral respect (see Chapter 4), the import overall is that, logically, if nonhumans are equipped to pursue their own species-specific goods, then their right to do so accords with basic respect for others’ good, which is a key precept of NLT.¹¹⁷

On a slightly different tack, Takahashi cautions against reading ‘animal rights’ into the natural law account (in relation to the requirement not to destroy life or thwart its *telos*).¹¹⁸ Here, he cites the argument that rights are yoked to duties, and that only humans (as moral agents) can be the subjects of either (see Chapter 4).¹¹⁹ However, this still recognises that nonhumans are subjects of life, and like all living things have intrinsic value (even if not rights). Takahashi relates this to indirect rights through guardianship, as a form of *noblesse oblige*¹²⁰ – a sense of moral duty based on the principle that it is for us to protect other life forms *because* only we can do so. Thus, if humans are morally superior to animals, then this in itself seems to make it incumbent upon us to acknowledge duties towards them that they cannot acknowledge to us.¹²¹

Humans versus natural law: the synthesis of respectivity

Chartier and others¹²² have made a persuasive case against the exclusion of nonhumans from the provisions of natural law theory, but I think it is more pertinent to ask on what basis humans were included. For it seems that the conventional account of human ‘participation’ in natural law does not really pertain to nature (*phusis*) at all but *nomos*; it is exclusively engineered to fit a

¹¹⁵ Chartier, ‘Animal Rights’, p.35. (This is contentious, but not impossible. For instance, some animals appear to enjoy, be relaxed by, or even spontaneously to dance to music.)

¹¹⁶ Ibid., p.37 and p.42.

¹¹⁷ Ibid., p.37.

¹¹⁸ Takahashi, ‘Environmental Ethics’, Section 2:3.

¹¹⁹ Ibid.

¹²⁰ Ibid.

¹²¹ Linzey, ‘Why Animal Suffering Matters Morally’, p.23.

¹²² Two other papers relevant to the issues addressed by Chartier are: Tom Cantillon, ‘Natural Law & Animal Rights’; and Jack Farrell, ‘Animal Rights Within John Finnis’ Natural Law’. Both can be viewed on the *Academia* website <<https://www.academia.edu/>> (Registration/sign-in required.) [Accessed 15 December 2023].

synthetic, rationalised and subjective apprehension of human good, which is subject to change; and on that basis it deviates from eternal law, which does not change.

Even if human morality does arise *ultimately* from the divine *nous* or eternal law, it is difficult to justify the special relationship with natural law envisaged by Aquinas. Broadly speaking, it seems more fitting to say that all life is subject to eternal law, but nonhuman instincts conform to natural law (even if animals do not know this), and human reason conforms to human law (to which Aquinas dedicates a separate section in *Summa Theologica* (ST, I-II, Q 95). Natural law (in Aquinas' system) would be better defined as primal law or instinctual law, pertaining to manifest moral/proto-moral instincts, regardless of species, along a continuum of evolving consciousness. This would then bridge the hinterland between eternal law (the domain of holiness and respectivity) and human law, which is the realm of synthesis and codification.

Where natural law is founded upon common and rational principles of good intuited from nature, in the human sphere it is conditioned by the objectifying (rational) intellect in ways that cause it to be disconnected from the underlying principles and to distort our natural intuitions. Our 'knowing' is distorted by the shadow presence of the egoic self and the kinds of ideological effects discussed in Chapter 7. That is to say, it is subject to our various predilections, desires and adaptational social norms; certainly, we may rationally generate viable moral ideas and systems, but again, their basis is synthetic, not natural. 'Good' then also presents itself in terms of those conditional and arbitrary dictates and desires, rather than natural common goods that (in NLT terms) pertain to the true fulfilment of human *telos*.

In view of this, an adequate account of human morality requires some cognizance of humans' actual behaviour rather than being based on notional capacities which that behaviour seems to belie.¹²³ For nonhumans, to 'know' the law is to observe it, whereas humans may know, but not necessarily act upon that knowledge, and often freely choose to do the opposite. That is to say, simply, we are not 'bound' by natural law in any meaningful sense but adapt it to suit ourselves. Plausibly, being 'unbound' is integral to human nature: indeed, it has been suggested that humans are now so technologically and organisationally advanced that the

¹²³ Stephen Buckle thinks that NLT has a basic problem which is its 'totally inadequate conception of the nature of human beings'. Buckle, 'Natural Law', in *A Companion To Ethics*, ed. by Singer, p.172.

restrictive principles of NLT have lost their currency in the management of societies in the modern world.¹²⁴

To be fair, Aquinas acknowledges the problem of human deviancy from good, and indeed actual wickedness, but he seems to see it as something incidental or aberrant – a kind of mistake - rather than a fundamental flaw intrinsic to human nature.¹²⁵ In doctrinal terms, he seems to sidestep the wider and deeper implications of ‘the Fall’, which separated humans from God – and which again begs the question of how morally agnostic humans can still share in the divine *nous* and participate in natural law in the way that Aquinas imagines. If all we need to live fully human and moral lives is accessible to us through our privileged sharing of that divine *nous*, why is the human world at large in a state of patent moral disorder? Why, indeed, do we often fall short of even the baseline, unreasoning moral-equivalency of nonhuman animals?

If one can accept the alienation or ‘Fall’ thesis (see Chapter 9), a straightforward answer is that humans (with rare exceptions) cannot access the natural paradigm for right action as other creatures appear to do. While the tool of reason enables us to infer the underlying principles, it is necessarily an inherently ‘synthetic’ interpretation of our felt moral instincts - a kind of ‘secondary revision’ process, in Freudian terms, in which we automatically match them up with rational or received ideas.¹²⁶ (This, I think, accords with the Humean and intuitionist accounts outlined earlier.)

Here, again, reason itself cannot directly apprehend what our natural goods really are; nor can we rely on our manifest egoic inclinations to enlighten us. And in the absence of such knowledge, we remain estranged even from *telos* itself. And one particularly damaging side effect of that estrangement is the conviction that we can simply emulate the self-management of nature, and that we can ignore or even defy it without consequence.

Animals, humans, the environment and natural law

One of the potential benefits of the natural law approach, if we accept the continuum view outlined earlier (i.e., rather than Aquinas’ tripartite category

¹²⁴ Arthur Kaufmann, *Über Gerechtigkeit – Dreissig Kapitel Praxisorientierter Rechtsphilosophie* (1993), cited by Takahashi, ‘Environmental Ethics’, Section 2:2.

¹²⁵ See Thomas Aquinas, *Summa Theologica*, Part I-II, Q. 94 - particularly Articles 4-6.

¹²⁶ Essentially, we automatically impose a kind of narrative or framework on our raw dream images to make them explicable to ourselves. This is outlined in Freud’s *The Interpretation of Dreams*. For a straightforward definition of the term, see ‘Freud, Sigmund’, *Encyclopædia Britannica* (Encyclopædia Britannica Ultimate Reference Suite, DVD, 2015). [Accessed 5 January 2024].

view), is that it lends itself to a holistic 'chain of being' approach to human, animal and environmental ethics, which potentially creates a different and more integrative perspective within which to consider all of them.

Takahashi's paper considers the merits of the natural law approach in relation to, for example, Leopold's Land Ethic (where moral standing is ascribed to the land itself) and links this to the NLT principle that a thing is good (or right) if it helps to preserve life (i.e., the biotic community) and wrong if it does not. This is also pertinent to deep ecology: i.e., a concern with the inherent and intrinsic (non-instrumental) value of the natural world.¹²⁷

This also gives us the perspective within which we intuitively recognise ourselves as an integral part to the greater whole,¹²⁸ and see all other organisms/beings as part of that whole, too. One can identify strong parallels here with previous discussions concerning interbeing, *verstehen* and sympathy theory as a framework for a deeper understanding our true place in the world. This need not necessarily be seen in quasi-mystical terms but it could be realised through the espousal of different or renewed moral values and practical changes to the ways in which we pursue our goods, such as simpler living, more organically structured communities, and less reliance on modern technology.¹²⁹

And here Takahashi makes the point that, while humans need a certain degree of technology to survive in the world, even to protect us from the 'dark side' of nature,¹³⁰ our technology also has its 'dark side' (the potential dangers associated with nuclear facilities or genetic engineering, for instance) from which nature needs to be protected. Indeed, in the light of technological advances in modern times, it has been suggested that we may even have reached the point where we are seriously intervening in natural laws.¹³¹

It does appear that human nature already finds itself in a default state of opposition to natural law. In creatively realising ourselves, making ourselves, extending ourselves, we de-realise and unmake nature itself. In that process, we not only destroy, but bring things into being which, while originating in nature, become divorced from their source by our intervention within it.

This highlights one especially pertinent aspect of the natural law approach – that moral harms are *real*; that to violate natural law principles is to violate the fabric of nature itself – to act against life in all its manifestations. While natural law principles may not be directly visible in nature, our collective contraventions of

¹²⁷ Takahashi, 'Environmental Ethics', Section 1.1.

¹²⁸ Ibid., Section 1.1.

¹²⁹ Ibid., Section 1:1-1:2.

¹³⁰ Ibid., Section 2:1.

¹³¹ Ibid., Section 2:2 and 2:5.

them are glaringly apparent all around us as manifest harms to the physical environment and to other living beings. Ironically, this reflects and fulfils the overweening anthropocentrism that characterises paradigmatic natural law theory, in which ‘everything else’ in nature is subordinate to human good, and of no value in its own right.

Against this, as I have set out to show, Aquinas’ idea that human beings are the central and exclusive focus of natural law on the basis of one suppositious capacity rests on arbitrarily speciesist assumptions conceived in an empirical void. Even if humans alone can create and participate in complex moral systems, this does not make us moral beings. Nor does it explain how ‘unreasoning’ beings manage their lives perfectly well without whatever mysterious moral-rational capacity which has been claimed for our species.

The thrust of this is to suggest that something other than human reason lies at the heart of the natural (self-)regulation of all animal species, for nonhumans appear to be governed by an inherent ‘instinctual’ (natural law) intelligence, which (from Hume), pertains to some kind of bodily sense – the ‘moral gag-reflex’ being an individualistic example of this. Humans may similarly ‘participate in’ natural law, as far as their phenomenal (animal) being permits, rather than on the basis of practical rationality, which (I surmise) is a merely a synthetic product of the individual thinking mind (noumenon) rather than the universal *nous*.

If we reject Aquinas’ unwarrantedly narrow account, along with the anthropocentric dogma associated with it, and adopt the continuum view implicit in the natural law approach, we can begin to see the true fullness, elegance and unifying potential of the theory in relation to human, animal and environmental ethics. We can see that all living things that have a wellbeing have every right to respect as subjects of, even if not direct and agentic participants in, natural law. This is not to impose a kind of artificial and undifferentiated equality upon them, but to recognise their essential interconnectedness under one overarching principle that governs all life. Even though other life forms may participate in natural law in diverse ways and at different levels of consciousness, there are no grounds to exclude any on the basis of imputed capacities or values – nor to elevate one species on that same basis.

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Overview and conclusions

At the outset I posed the two-part research question of whether humans have moral duties towards nonhuman animals rather than rights over them; and (if we do have such obligations) what does our actual treatment of those beings signify about human morality? It should be clear from the ensuing discussions and arguments, which I revisit in brief below, that I am answering the first part of the question in the affirmative. (I will come back to the second part further on.) In practice, this means that we are not morally entitled to harm or destroy innocent life, and indeed are obliged not to cause or allow such harms when it is our power to avoid doing so. And this simple principle in turn underwrites the abolitionist position (the cessation of all forms of animal exploitation) to which I have subscribed in this thesis.

As I argued in the first chapter, one cannot legitimately ‘own’ the life of another conscious being, and thus one cannot rightfully take and dispose of that life. And this is only defeasible, I think, by invoking some version of ‘might makes right’ (or ‘can implies may’). On this basis, nonhumans have, by default, correlative, ‘no trespassing’¹ entitlements to life, liberty and non-interference,² with which we are morally obliged to comply, irrespective of any perceived instrumental value to ourselves.³ The import of this ‘line in the sand’ is that, by default, the onus rests on apologists for humans’ ‘exploitation rights’ to justify violating that principle rather than on advocates for animal rights to provide further arguments to justify the entitlements of nonhumans to be protected from such violations of their interests and wellbeing.⁴

It seems clear that one cannot provide that justification, for we are collectively capable of fulfilling our vital needs⁵ (or ‘goods’) without exploiting nonhumans, which, again, morally obliges us to end such exploitation. Claims to the contrary – particularly the discredited notion that humans need to consume animal products – are essentially rationalisations of arbitrary self-interest, historical and culturally

¹ Tom Regan, ‘Sentience And Rights’, in *Animals, Ethics And Trade: The Challenge Of Animal Sentience*, ed. by Jacky Turner and Joyce D’Silva (London; Sterling VA: Earthscan, 2006), p.79.

² Essentially, the reciprocal ‘correlative’ relationship between rights and duties/obligations. See Tom L. Beauchamp, ‘Rights Theory And Animal Rights’, in *The Oxford Handbook Of Animal Ethics*, ed. by Tom L. Beauchamp and R. G. Frey (Oxford and New York: Oxford University Press, 2011), p.206.

³ Bernard E. Rollin, *Animal Rights & Human Morality*, 3rd edn. (New York: Prometheus Books, 2006), Chapter 1, Section 33, para. 3. Kindle ebook.

⁴ Again, this echoes the argument that ‘negative’ rights (in the sense of a right not to be treated as property) would eventually obviate the need for other ‘positive’ rights, in relation to domesticated animals. See Gary L. Francione and Anna Charlton, *Animal Rights: The Abolitionist Approach* (Exempla Press, 2015), Principle 1, Section 8, para. 15. Kindle ebook.

⁵ See Mark Rowlands, *Animal Rights: All That Matters* (Hodder & Stoughton, 2013), Chapter 1, Section 3, para. 1. Kindle ebook.

ingrained patterns of habituation and dependency, and a wilful resistance to change. In short, we destroy nonhuman animal lives because choose to do so.

We have seen how some commentators have sought to negate these considerations by disvaluing animal lives altogether, to the extent of denying that animals are conscious, even of their own suffering.⁶ This is in spite of abundant and compelling scientific evidence to the contrary, salient examples of which were reviewed in Chapters 2 and 3. While it may be technically incorrect to claim absolute proof, such experimental and observational research overall, I think, places it beyond reasonable doubt that nonhuman creatures who possess the requisite neural circuitry are both conscious and sentient in the true sense of those terms. And these capacities are commonly regarded as the basis of our moral obligation not to harm them⁷ - but this does not mean that we may kill animals as long as no suffering is involved (see Chapter 2, p.41).⁸ To go further, I concur with the 'triage' view that, as power-holders, our greatest moral obligations and priorities are owed to the most innocent and most powerless beings of all.⁹

However, I also concur in principle with the position that nonhuman animals are entitled to such protections, not at our discretion but under the aegis of justice (see Chapter 5). For, if justice pertains to what one is rightfully owed, then forcibly depriving animals of what rightfully belongs to them already (which clearly includes their own lives) *is* injustice.¹⁰ This is not to argue for human-equivalent rights to be conferred upon other animals but for their entitlement to their own physical existence and welfare ('commodities' which are not ours to withhold or dispense) to be recognised in their own terms.

At the same time, justice conventionally entails some form of reciprocity, and this seems inapt when animals merely require that humans no longer take their lives from them - not to be *de facto* claimants under some assumed form of contract. Thus, to include nonhumans as honorary stakeholders within a human moral framework is still to gauge their particular interests on a scale of values which, by default, prioritises our own. (Hence, I have argued that even the kind of

⁶ See Peter Carruthers, 'Brute Experience', *The Journal Of Philosophy*, 86:5 (1989), 258-69 <<https://www.jstor.org/stable/2027110>> [Accessed 22 April 2019].

⁷ Mary Midgley, *Animals And Why They Matter* (Athens, Georgia: University of Georgia Press, 1998), p.91.

⁸ See, for instance, Elizabeth Harman, 'The Moral Significance Of Animal Pain And Animal Death', in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, pp.727-28.

⁹ In this regard, Andrew Linzey argues for children and animals as a special case. See Andrew Linzey, 'What Prevents Us from Recognising Animal Sentience?', in *Animals, Ethics And Trade*, ed. by Turner and D'Silva, p.75.

¹⁰ Andrew I. Cohen, 'Contractarianism, Other-Regarding Attitudes, And The Moral Standing Of Nonhuman Animals', *Journal Of Applied Philosophy*, 24:2 (2007), 188-200 (p.195) <<https://www.jstor.org/stable/24355305>> [Accessed 4 April 2022]. See also Marc Bekoff and Jessica Pierce, *Wild Justice: The Moral Lives Of Animals* (Chicago and London: The University of Chicago Press, 2010), p.113. See also Robin Attfield and Rebekah Humphreys, 'Justice And Non-Human Animals', Part I, *Bangladesh Journal Of Bioethics*, 7:3 (2016), 1-11 (p.2).

conscientious, species-sympathetic assessment exemplified by the ‘capabilities approach’¹¹ tacitly associates a particular animal’s apparent potential to do or experience something with relativistic notions of the significance or value of such potential.)

We may think it obvious, for instance, that a dog is not equal to a human being, but without being able to say definitively in what sense or to what degree it is unequal – a conundrum which I addressed in the ‘violinist or the orchestra?’ analogy in Chapter 5. Essentially, I see the presumptive fact-value criterion itself as deeply problematic because it assumes an objective, hierarchical scale of moral considerability in relation to living beings, but without providing viable criteria to make such an assessment,¹² which means we are apt to confuse intrinsic value with *attributed* value (i.e., whether x or y is valuable to *us*).

To claim (with Regan), that one human life is worth a million, or any number of dogs’ lives,¹³ is to make humans infinitely valuable and dogs objectively valueless. Indeed, using the same logic, one human life would then be worth more than the lives of all nonhuman animals on earth – which seems to undermine not only Regan’s own thesis, but the entire animal rights project. Thus, I contend that it is a fundamental error to envisage capacities as qualifications for the basic right to exist, for this has already been determined, over the heads of humans, through the rigorous selection process of evolution – or by God, from a faith perspective.¹⁴

Moreover, it is a matter of scientific record from a range of sources (see Chapter 3 for exposition and individual references) that various animal species possess high-functioning capacities such as self-recognition, flexible learning, forward planning, problem-solving, a theory of mind (anticipatory ‘mind-reading’), pro-social behaviour, emotionality, and even structured forms of language, which were once thought to be unique to humans. And in the light of such manifest abilities – which in some cases overlap or surpass our own - it is increasingly difficult to substantiate the claim that other animals are inherently and categorically unlike us, or, indeed, intrinsically inferior to us.

This not to deny that humans have particular high-functioning capacities and special interests, but to recognise that these exist along a continuum of overlapping capabilities (fact), not a fixed scale of intrinsic worth (value) with humans at the top. And, to avoid inconsistency, the same evident capacity would need to attract the same ‘score’, regardless of species or individual. On this basis,

¹¹ See Martha Nussbaum, ‘The Capabilities Approach And Animal Entitlements’, in *The Oxford Handbook Of Animal Ethics*, ed. by Beauchamp and Frey, p.237.

¹² A similar point is made by Griffin. See Donald Griffin, *Animal Minds* (Chicago: University of Chicago Press, 1992), p.265.

¹³ Lori Gruen, ‘Animals’, in *A Companion To Ethics*, ed. by Peter Singer (Malden, MA; Oxford; Victoria: Blackwell Publishing, 1993), p.347. See also Tom Regan, *The Case For Animal Rights* (Berkeley and Los Angeles: California University Press, 2004), pp.285-86.

¹⁴ William Hamilton Drummond, *The Rights Of Animals: Man’s Obligation To Treat Them With Humanity* [1838] (Hardpress, 2017), Chapter 9, Section 4, paras 3, 4 and 19. Kindle ebook.

I think, attempts to dismiss the argument from marginal cases¹⁵ (see Chapter 5) not only fail in logical terms but also illustrate the double-standards and self-bias inherent in our own scale of values. As others have remarked, we are fortunate to be human, but it is of no credit to us;¹⁶ and on that view, any of us (i.e., as instances of consciousness) could have been born as members of other species.¹⁷

At this stage in the thesis, the focus shifts increasingly to the second part of the research question, i.e., what our collective treatment of nonhuman animals says about the moral nature of human beings. The existence of such anomalies as those indicated above, I believe, indicates that there is something skewed and rationalistic in human notions of morality generally. Accordingly, I have taken a broadly Hobbesian view of our ethical systems as forms of collective-contractual self-management, which necessarily adapt to changing social pressures (see Chapter 6). This is not to say that humans are inherently amoral, but rather that we are ethical pragmatists whose instincts for good tend to be subservient to collective imperatives and values which may conflict with those instincts. In response, we become exponents of 'functional untruths' that reinforce the dominant values of our social group; and in doing so, we participate in ideological misrepresentations of the world.

The relevance of ideology to animal ethics is that it entails false perceptions of nonhuman beings, which are continually reinforced through various forms of distortion and misinformation, and which (as we saw in Chapter 7) nullify and fictionalise the reality of our violent exploitation of them, and confuse and repress our latent sense of compassion.¹⁸ On this basis, certain critical theorists draw parallels with the ideological mechanisms associated with gross injustices in human societies.¹⁹ Crucially, however, I argue that we are collectively culpable even in our own self-deceit. We can know the facts for ourselves, but most of us actively avoid doing so and indeed *rationalise* manifestly cruel and harmful practices instead. The indication here seems to be that most humans simply do not want to change, but do not want to feel guilt either, and so take refuge in denial.

¹⁵ See, for instance, Evelyn Pluhar, *Beyond Prejudice: The Moral Significance Of Human And Nonhuman Animals* (Durham and London: Duke University Press, 1995), p.63 and p.124; see also Peter Singer, *Animal Liberation* (London: The Bodley Head, 2015), pp.17-23.

¹⁶ Andrew Linzey, 'Why Animal Suffering Matters Morally' (chapter), in Andrew Linzey, *Why Animal Suffering Matters: Philosophy, Theology, And Practical Ethics* (Oxford and New York: Oxford University Press, 2009), p.10 and p.13. [Oxford Scholarship Online, 2014] <<https://doi.org/10.1093/acprof:oso/9780199351848.003.0002>>.

¹⁷ Robert Garner, 'Rawls, Animals And Justice: New Literature: Same Response', *Res Publica*, 18 (2012), 159-172 (pp.165-67) <<https://doi.org/10.1007/s11158-011-9173-z>>.

¹⁸ See Robert Grillo, *Farm To Fable: The Fictions Of Our Animal-Consuming Culture* (Danvers, MA: Vegan Publishers, 2016), p.154.

¹⁹ See *Critical Theory And Animal Liberation*, ed. by John Sanbonmatsu (Lanham; Boulder; New York; Toronto; Plymouth, UK: Rowman & Littlefield Publishers, Inc, 2011).

This tension underscores the value and relevance of Hume's apposite distinction between artificial and natural virtues – with the latter arising from an innate and shared sense of common humanity, rather than socially-constructed moral systems. That we are capable of feeling such 'natural sympathy' in some situations is apparent in spontaneous, unselfish or even selfless actions to help or protect others, but it is even more significant, I think, that nonhuman animals have been observed to exhibit similar behaviour – even risking their own lives for members of other species, including humans.²⁰

On this basis it seems plausible that some form of whatever sensory-instinctive other-relating faculty appears to be at work here may be inherent in many species – and indeed may be involved in managing interrelationships between nonhuman animals, within their own inherited and adaptational limitations. This is not to say, necessarily, that animals have some conscious sense of moral good but that they are 'contained' by innate, instinctual behaviours which we would describe as 'moral' in human beings. In my characterisation, nonhumans in general co-exist in a state of natural 'conformity to ordinance': that is, they are naturally aligned to lawlike conditions which obtain consistently in the natural world in a way that humans are not.

If nonhumans can do this without (allegedly) the faculty of reason, this begs the question of why humans alone should need artificial moral systems instead of defaulting to a similar (hypothetical) primal or instinctive proto-moral capacity. And here, I think it is possible that our higher cognitive functions have developed at the expense of maintaining more fundamental abilities, somewhat as senior executives at a large company may know all *about* the products made by the firm but may not necessarily have the essential hands-on skills needed to produce them.

More specifically, I think that this implicates our 'quantum leap' acquisition of higher capacities for infinite reflexivity and abstract conceptual thought, which I posited as the (perhaps the *only*) human attributes that distinguish us from nonhuman animals. And it is these capacities which, in combination, create the egoic 'I-mirage' - a thought-form which refracts our perception of the phenomenal world. By contrast, nonhuman beings in general (I believe) lack our capacity to manifest egoic illusions, and thus abide in the concrete and rule-governed matrix of the phenomenal world rather than a conceptualised version of it.

²⁰ See, *inter alia*, Marc Bekoff and Jessica Pierce, *Wild Justice: The Moral Lives Of Animals* (Chicago and London: The University of Chicago Press, 2010); and, Frans DeWaal, *Good Natured: The Origins Of Right And Wrong In Humans And Other Animals* (Cambridge, Massachusetts and London: Harvard University Press, 1996), p.88.

This egoic self-construct,²¹ I contend, is at the heart of our ideological misperception of the phenomenal world and our antagonistic relatedness to other living beings – when the ‘I’ sees itself as a thing to be asserted against the perceived threat of the Other. The manifestation of the associated imperative to exercise power against or over both real and imaginary threats (which I related to the ‘fascism hypothesis’ in Chapter 8) is the ultimate expression of the egoic self, and conflicts with the intrinsic balance of the primal relational dynamic of nature, which I refer to as ‘respectivity’.

The idea of the ‘I’ as an illusory and immaterial entity derived from a false apprehension of the world is a key tenet of Eastern thought (see Chapter 8), but not exclusively: Hume, for instance, arrives at a very similar conclusion via first principles,²² and Niebauer argues that it is essentially a product of left-brain activity – ultimately a thought like any other.²³ An important implication of this is that if what we commonly identify as a human person is itself insubstantial, then *personhood* would seem to be inadmissible as a criterion for moral considerability in relation to other species.²⁴

Moreover, if this ‘primordial error’²⁵ of perception is at the heart of the problem, and key to the chain of problematics outlined in this thesis, then it is conceivable that this same self-reflexive capability can be utilised to reflect upon and eventually to correct our own distorted misperceptions: in effect, to ‘short-circuit’ the egoic self and in turn to relinquish its objectified, unloving distinction between self and other – ideas which, I think, accord significantly with certain forms of meditational or mindfulness practice.

It is admittedly difficult to convey the import of such ideas outside of a transcendentalist framework. However, one can draw certain parallels within a more secular context in the work of, *inter alia*, Schopenhauer, members of the Frankfurt School, care ethicists, radical eco-feminists, sympathy theorists, and associated schools of thought, which represent an important – and I think necessary – shift of focus away from presumptive human exceptionalism and

²¹ As I stated in Chapter 8, credit is due to Eckhart Tolle for the essential idea of the egoic self-concept/conceptual self-identity. See, for instance, Eckhart Tolle, *A New Earth: Awakening To Your Life's Purpose* (London and New York: Penguin, 2005), p.28.

²² David Hume, *A Treatise Of Human Nature*, Book 1, Part IV, Section VI. Reproduced in *Personal Identity*, ed. by John Perry (Berkeley; Los Angeles; London: University of California Press, 1975), p.162.

²³ Chris Niebauer, PhD, *No Self, No Problem: How Neuropsychology Is Catching Up To Buddhism* (Hierophant Publishing, 2019), Chapter 1, Section 2 (‘Exploration’), paras 3-6. Kindle ebook.

²⁴ See Chapter 5 (pp.152-53) of this thesis for context.

²⁵ Eckhart Tolle, *A New Earth*, p.27.

towards the deliberate cultivation of a compassionate reverence for the intrinsic value of all individual living beings.²⁶

A prevailing theme within this perspective is the notion of sympathy as knowledge or understanding (*verstehen*),²⁷ which I have likened *in principle* to the Gnostic belief that profound, self-authenticating esoteric-metaphysical insights can be obtained independently of external authority or proof.²⁸ It may be objected that, without the operation of reason, we cannot claim *actual* and verifiable knowledge. However, if Hume is correct, reason is not the operating principle that governs moral behaviour in any case: in practice, we can only speak of moral *feelings* and inclinations to act in ways that seem to accord with them.²⁹

Here I agree with the characterisation (by some thinkers within the schools listed above) of reason as something antagonistic to compassion and our natural moral intuition – as an essentially masculinist principle which uses concepts as tools to define, ‘cut up’ and manipulate the world.³⁰ Accordingly, this alternative perspective could be seen as a renewal of primal matristic values³¹ in the form of a receptive and inward attunement to life in all its manifest forms – a mission to recover our subjective ‘belonging’ to nature rather than objectifying it as Other.

This is also compatible with the hypothetical discussion of human dysfunctionality in relation to notions of ‘the Fall’ in Chapter 9, in regard to which – again – I contend that in acquiring the higher executive function of reason, early humans became alienated from their own primal proto-moral instincts. Unlike the animals (who did not ‘Fall’), humans are no longer connected to natural law but bound by the artificial construct of human law. And this is itself derived from reason – but reason which itself reflects our state of profound alienation from nature, so that even our own apparently legitimate interests, inclinations and moral norms remain

²⁶ A number of thinkers are referenced in this regard in Chapter 9 of this thesis (pp.284-86). See Josephine Donovan, ‘Sympathy And Interspecies Care: Toward A Unified Theory Of Eco-And Animal Liberation’, in *Critical Theory And Animal Liberation*, ed. by John Sanbonmatsu (Lanham; Boulder; New York; Toronto; Plymouth, UK: Rowman & Littlefield Publishers, Inc, 2011), p.280. (Donovan highlights empathetic techniques in the work of a range of thinkers, including Weil, Murdoch, Shapiro, Stein, Husserl, Scheler, Mercer and Acton.)

²⁷ Max Scheler, in *The Nature Of Sympathy* (Hamden, CT: Archon, 1970), referenced by Josephine Donovan, ‘Sympathy And Interspecies Care’, p.280.

²⁸ I stress that I am not suggesting any shared religiosity here. For a good introduction which links Gnosticism with other schools of thought, see Tobias Churton, *The Gnostics* (London: Weidenfeld and Nicolson, in association with Channel Four and Border TV, 1987).

²⁹ David Hume, *A Treatise Of Human Nature* (Wentworth Press, 2016), Book III, Part I, Section 1 (‘Morals Are Not Derived From Reason’). Kindle ebook.

³⁰ See Zipporah Weisberg, ‘Animal Repression: Speciesism As Pathology’, in *Critical Theory*, ed. by Sanbonmatsu, p.179. See also Carol J. Adams, ‘After MacKinnon: Sexual Inequality In The Animal Movement’, in *Critical Theory*, ed. by Sanbonmatsu, p.261.

³¹ With reference to Steve Taylor, *The Fall: The Insanity Of The Ego In Human History And The Dawning Of A New Era* (Winchester, UK and Washington, USA: iff Books, 2005), Introduction, iii-iv.

misaligned with the Good. Thus, in my view, humans are ‘fallen’ in the sense that as a species we fall conspicuously short of our own potential moral capacities, and indeed even our own most basic legal precepts and laws.

All of this then dovetails into my suggested reworking of classical natural law theory (NLT): preserving the central idea of law-like principles of good action to which (for Aquinas) we are subject, and which are ultimately *knowable*.³² Others, notably Gary Chartier, have argued persuasively against the anthropocentric notions which specifically excluded nonhumans from NLT;³³ however, I go somewhat further by rejecting human rationality as the exclusive principle of practical moral knowledge, in favour of a form of intuitionism³⁴ - and indeed arguing that it is actually humans (by dint of alienation), and not animals, who are unable to participate in natural law.

The attractiveness of NLT is that it places human practical and moral affairs – how we identify and service our own legitimate goods and inclinations - within a wider, metaphysical context in a way that underscores the contention that the wrongs we do are consequential events that entail manifest harms and suffering in the phenomenal world; that to act contrary to natural law is in effect to break faith with our own *telos* – indeed, to act against the Good of life itself.

On balance, I consider that I have shown how the apparently disparate series of problematics, hypotheses and approaches which I have identified throughout this thesis are logically and thematically linked, and can therefore be brought together into a more unified, comprehensive and radical theoretical base within which to consider and indeed to *realise* our moral duties towards nonhuman animals – the cornerstone of which is the simple requirement not to harm innocent life. And to this end it proposes a decentralised perspective, which – contrary to the conventional anthropocentric presumptions that make the whole of nature, including the nonhuman animal realm, subservient to our own synthetic moral systems - places humans themselves within the orbit of universal, lawlike principles which govern the phenomenal world. And for as long as we continue to enslave, abuse and kill nonhuman animals we are at war with those principles.

³² Thomas Aquinas, *Summa Theologica*, tr. by Fathers of the English Dominican Province (Coyote Canyon Press, 2010), Part I-II, Q 94, Article 4. Kindle ebook. See also Mark Murphy, ‘The Natural Law Tradition In Ethics’, *Stanford Encyclopedia of Philosophy* (2019), Section 1:1 <<https://plato.stanford.edu/entries/natural-law-ethics/>> [Accessed 12 October 2023]. See also John Finnis, *Natural Law And Natural Rights* (Oxford and New York: Oxford University Press, 1980), pp.23-24 and p.398.

³³ Gary Chartier, ‘Natural Law And Animal Rights’, *Canadian Journal Of Law And Jurisprudence*, 23:1 (2010), 33-47.

³⁴ See W. D. Hudson, *Modern Moral Philosophy*, 2nd edn. (Basingstoke and London: Macmillan, 1983), Chapter 3, ‘The Intuitionist Theory’. See also Jonathan Dancy, ‘Intuitionism’, in *A Companion To Ethics*, ed. by Singer (Malden, MA; Oxford; Victoria: Blackwell Publishing, 1993), pp.411-20.

The realisation of this entails a fundamental change on our part, but this need not deny us anything that properly belongs to us or fulfils our *telos*,³⁵ but shifts the onus on us to 'transform ourselves' in ways that honour the *telos* and intrinsic worth of all beings – irrespective of their value to us - and revere all aspects of the natural matrix from which we have become estranged.

³⁵ Rollin, *Animal Rights & Human Morality*, Chapter 1, Section 36, paras 2-4, and Section 37.

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