

be compatible in any possible world with treating animals badly. Of course, insofar as we are virtuous, given our ends, we cannot but contemplate such possible worlds, or any possible worlds in which animals are mistreated with sadness. But to say that we cannot rule out the possibility that such a virtuous existence is possible is not to say that we can have any understanding of what it would be like; we have no idea what the duties are of beings that are so different from us.

Of course, the threat to Kant's view is not so much the bare logical possibility of beings that do not have duties regarding non-human animals, but that such a possibility might illustrate that we have missed the true grounds of our duties to animals. However, we hope that the rest of the paper has done enough to assuage these worries.⁸

8

Kant and Moral Responsibility for Animals

Helga Varden

8.1 Introduction

Working out a Kantian theory of moral responsibility for animals¹ requires the untying of two philosophical and interpretative knots: i) how to interpret Kant's claim in the important 'episodic' section of the *Doctrine of Virtue* that we do not have duties 'to' animals, since such duties are only 'with regard to' animals and 'directly to' ourselves; and ii) how to explain why animals don't have rights, while human beings who (currently or permanently) don't have sufficient reason for moral responsibility do have rights.² At the heart of the problem lies the philosophical challenge of whether a Kantian account of moral responsibility for animals can take the animals *themselves* into account in the right way, that is, without utilizing arguments that (wrongly) presuppose that non-human animals are moral agents or can be morally responsible for their actions.

The task of untying these two knots is the aim of this essay. I start by defending Kant's general claim that our duties regarding animals are not 'to' them, but rather 'with regard to' them. Relations between human and other animals are not relations between two kinds of moral beings, since animals are not capable of the kind of consciousness, in particular the reflective self-consciousness that moral

¹ For ease of prose, I mostly use the words 'humans' and 'animals' throughout this paper. Only when it seems useful do I use language that explicitly draws attention to the obvious, assumed presumption (given the structure of my account), namely that humans are a kind of animal; those times I use the contrast human and non-human animals.

² A special thanks to Lucy Allais, who not only decided that I would write this paper, but whose engagement with the ideas from the beginning has been invaluable. Huge thanks also to: Ingrid Albrecht, Sarah Broadie, Rachel Bryant, John Callanan, Lara Denis, Katerina Deligiorgi, Dan Hooley, Arthur Melnick, Eric J. Miller, Barbara Sattler, David Sussman, Sergio Tenenbaum, Shelley Weinberg, Ekow N. Yankah, and the audiences at related talks given at: the 'Kant on Animals' conference, University of Witwatersrand/Kruger Park; The Philosophy Club, University of St. Andrews; New Voices in Legal Theory workshop, University of St. Andrews; Department of Philosophy, University of Toronto; Brady public lecture series, Northwestern University. Finally, thanks to the Department of Philosophy and the Center for Advanced Studies at the University of Illinois at Urbana-Champaign; the University of St. Andrew's Centre for Ethics, Philosophy and Public Affairs; and the Brady Scholars Program in Ethics and Civic Life at Northwestern University for having funded this research project. The mistakes that have survived despite all these efforts are, of course, mine.

⁸ This paper was presented at the Kant on Animals Conference, Kruger Park, South Africa, July 2013. We are very grateful to the helpful comments from the participants on this occasion.

being requires. Instead, the more complex human-animal relations are affectionate, social relations to which humans can and sometimes should relate morally. This is why these moral duties are 'direct' only to ourselves; we are the only ones in the relations that can be morally responsible for them. Correspondingly, respect (in Kant's precise sense of the word) is a distinctly reflective, moral emotion internal to the specific normative orientation we have only to beings that can be truly free (reflectively self-conscious), and so, to human beings; morality and respect single out how we regard ourselves and other human beings capable of freedom.

As we will see, Kant has a consistent and not counter-intuitive account of why we have the moral attitudes we do about animals and of how it is that these attitudes have the appearance of being about the animals themselves. In addition, Kant can explain why it doesn't follow from this that these moral attitudes arise from attributing moral rights to the animals themselves. Central to this interpretation is Kant's *Religion*, as it contains an account of human nature that adequately explains why we have the positive attitudes we do towards animals; similarly, the *Religion* contains an account of human evil that explains why we consider other occasions of attitudes towards animals as *genuine* examples of moral failure. Hence, the *Religion* is central to understanding why Kant's approach to animals is neither internally inconsistent nor counterintuitive.

8.2 Duties with Regard to Animals

The main difference between human and non-human animals, Kant argues, is that only humans are capable of *free* choice since they alone have the reflective self-consciousness that makes free choices possible. And since morality is exactly the realm of free choices, only human animals can enter into *moral* relations. It follows, Kant argues in the famous 'episodic' section of the *Doctrine of Virtue*, that only a human being can have moral obligations, and consequently a human being's moral duties when interacting with animals will always be direct in relation to oneself and indirect with regard to them. The aim of this section is to clarify this argument of Kant's.

In one of his very latest major publications on moral philosophy, *The Metaphysics of Morals*, Kant makes these arguments about human and animal choices in the following way: an animal choice is 'determined only by *inclination* (*sensible impulse*, stimulus)', whereas a human choice 'can indeed be *affected*, but not *determined* by impulses;' in fact, as humans mature and become capable of moral responsibility, their choices 'can be determined by *pure reason*;' their choices are then truly free (MM 6: 213f). I have an ability to step back and think about what I want to do regardless of how strong my current inclinations are (negative freedom) and I have an ability to do something *just because* it is the right thing to do (positive freedom) (MM 6: 213). Moreover, as always, this

stepping back to evaluate the morality of one's action (negative freedom), for Kant, involves 'subjecting the maxim of my action to the condition of its qualifying as universal law' (MM 6: 214). Essential to Kant's take on these things is a fundamental conviction that no other animals we know of (on our planet, at least) can engage in the complex conscious way of engaging with the world characteristic of human being. To start, other animals can perform actions—do things and choose to do something rather than something else—but as they engage with the world, they cannot think in the way consciously using abstract concepts involves (as they think associatively and without abstract concepts).³ Correspondingly, in the practical realm, a non-human animal cannot act on what Kant calls a maxim, namely a 'rule that the agent himself makes his principle on subjective grounds' (MM 6: 224, cf. G 4: 401n).

In light of these differences between human and animal choices it is possible to understand why Kant proposes that believing we have moral duties directly to animals is an 'amphiboly' or ambiguity 'in the moral concepts of reflection' (MM 6: 442). What Kant means, I believe, is that in our ordinary ways of talking, we are ambiguous about how to understand our duties in relation to non-human beings—as directly 'to' them or as 'with regard to' them. So, when we say something like we have duties 'to' animals, we know what people mean even if most people also think that there's something a little strange, off, or not quite right about these ways of talking. According to Kant, these ways of talking make sense to us because they rest on this ambiguity concerning how we talk about duties, namely how we customarily do not draw the distinction between having duties *to* and having duties *with regard to*. If we speak precisely, however, then, Kant continues, we should draw this distinction to capture how non-human animals are incapable of morality—or 'of obligation (active or passive)'—which is why they cannot enter into moral relations (MM 6: 442, cf. 443). Consequently, strictly speaking, the correct way of describing these duties is to say that human beings have duties *with regard to* animals, but that the morality of these duties—the moral *ought*—is directed to the humans themselves. Again, this does not mean that we do not have moral obligations with regard to animals, but only that the direct moral obligation is to ourselves—not to the animals. In sum, animals have the power to decide (*arbitrium*) but it is determined by an 'is' as comparative (associative) evaluations, whereas humans' power to decide involves comparative (abstract conceptual) evaluations that are subject to an ought, and so presuppose transcendental freedom.

³ I take myself to be following Allais's analysis of animals in her (2015), which is of course neither to claim that my interpretation of her is correct nor to deny that there may be several Kantian and non-Kantian ways of making these kinds of arguments regarding the differences between human and animal consciousness. For an alternative, though in my view not incompatible, way of bringing out Kant's account of animal consciousness and choice, see Patrick Kain's excellent (2010).

8.3 Animals' Social Natures

After having drawn this distinction between duties 'to' and duties 'with regard to' in the 'episodic' section of the *Doctrine of Virtue*, Kant seemingly continues by arguing that this direct moral duty to ourselves concerns our duty not to destroy our ability to be responsive to animal suffering. More specifically, by acting cruelly towards animals, a person 'dulls his shared feeling of their suffering and so weakens and gradually uproots a natural predisposition that is very serviceable to morality in one's relations with other people' (MM 6: 443). In other words, it seems that the reason why we shouldn't act cruelly towards non-human animals is because doing so undermines our ability to act morally towards *other human* beings. The reason we should be nice to animals therefore appears purely instrumental in nature: being nice to animals is good for us (human beings) in our interactions with each other. Kant's approach appears thoroughly anthropocentric in a problematic, instrumentalist sense.⁴ The main objection is to the specific, instrumental way in which the account is anthropocentric: the account does not appear to get the concern for beautiful nature and non-human animals into focus in the right kind of way. The reason we shouldn't do these things is not just that it undermines human morality, since the badness of what we're doing goes beyond this. In short, the worry is that Kant's conclusion (that we should care for, and not torture or mistreat, animals) is the right one, but the reason he gives is the wrong one; we should care about them because they matter for their own sake.

I believe this line of objection is wrongheaded and rests on a mistaken interpretation of what Kant is saying about why we should care for animals. It's true that his account of these *moral* duties is anthropocentric in a certain sense, but not in the problematic instrumental sense the above interpretation assumes. Animals do have value in themselves, but we easily confuse the way we value them with moral valuing.⁵ Analogous to how there is (as mentioned above) an amphiboly with regard to how we talk about duties and animals (duties 'to' and

⁴ Kant seemingly proceeds in this text by listing several examples of how humans should and should not treat animals because of how such interactions have the potential of being destructive of, or undermining of, our capacity for morality: e.g. (MM 6: 443, cf. TP 8: 294, CL 27: 458–9). For more on these apparent troubles, see Timmermann (2005).

⁵ Although considerations of space prohibit me from going into details here, note that this discussion ties in with the discussion in the Kant literature on the value of happiness in human lives. Kant also describes our moral duty to happiness as 'indirect' in nature (GW 4: 399), which leads many Kantians to conclude that happiness (for Kant, at least) also is something we should be concerned about because it makes it subjectively easier for us to be moral. Of course, I don't disagree that happiness makes it subjectively easier for us to be moral; rather, as I argue elsewhere (Varden 2020), concerns rooted in happiness can also not be thought of as being subject to our control or characterized as involving respect, but that does not mean that concerns of happiness are not also valuable in themselves. This is why Kant argues that the aim of a good human life is not to rid ourselves of concerns grounded in our animalistic and social natures (our happiness); rather, he argues, the 'highest good possible in the world... consists in the union and harmony of... human morality... and human happiness.' (TP 8: 279)

duties 'with regard to'), there is an amphiboly with regard to how we talk about respect and animals. Strictly speaking, we do not respect animals—as respect is a reflective feeling we have internal to a relation between two self-reflective beings—but we do love, care for, and even admire animals. As we shall see in Section 8.5, we do not need to change the structure of Kant's account to explain why we do not have a moral right to torture animals or subject animals in our care to torturous conditions. Rather we need to add to Kant's 'episodic' section arguments we find elsewhere in his works, in particular his account of human nature in the *Religion*, as they suffice to explain why we have the moral attitudes we do towards animals, without it being the case that those considerations are themselves the grounds of moral rights for animals.

8.4 Kant's Account of Human Nature

Kant's complete practical philosophy is threefold. It consists of: (i) an analysis of freedom (comprised of two distinct lenses: that of right,⁶ or justice, and that of virtue, or ethics), which is restricted to moral (and, so, human) beings; (ii) a normative account of human nature, some elements of which are teleological and social and some of which are viewed as shared with non-human animals; and (iii) an empirical, scientific analysis of everything appearing spatiotemporally (including *de facto* inclinations). To understand how Kant analyses something like animals and our proper relationship to them, therefore, we must incorporate Kant's normative writings on human nature, including as they concern our embodied, social (and so affectionate) being, many aspects of which we share with non-human animals. Since this account is crucial to understand why Kant's take on our duties with regard to animals is not anthropocentric in the problematic, instrumental sense encountered above, sketching the relevant features of it is the main purpose of this section. And to do this, I draw mainly upon Kant's account of human nature in the *Religion*.

In the *Religion*, Kant proposes that there is a threefold 'original predisposition to good in human nature', namely one comprising the predispositions to 'animality', to 'humanity', and to 'personality' (R 6: 26). Concerning the first, the predisposition to animality, Kant clarifies that it can be characterized as 'physical or merely *mechanical* self-love, i.e. a love for which reason is not required' as well as being (also) threefold: first, it includes the natural drives for 'self-preservation,' second, 'the propagation of the species, through the sexual drive,' including care-taking of one's offspring; and third, 'community with other human beings, i.e. the social drive' (R 6: 26). Concerning the second, the predisposition to humanity,

⁶ Note that for reasons of space, I do not fully engage the question of our legal duties with regard to animals in this paper.

Kant says that it can be characterized as 'self-love which is physical and yet involves comparison (for which reason is required) ... Out of this self-love originates the inclination to gain worth in the opinion of others, originally, of course, merely equal worth' (R 6: 27), and later adds that the reason in question here is 'indeed practical, but ... subservient to other incentives' (R 6: 28). I will call this type of love 'reciprocal self-love' for ease of reference. Also the type of self-love corresponding to the third predisposition (to personality) is not given a name by Kant in the *Religion*, but in the second *Critique* he calls it 'rational self-love' (CPrR 5: 73). Here in the *Religion* Kant simply describes this predisposition as 'the susceptibility to respect for the moral law as of itself a sufficient incentive to the power of choice. This susceptibility to simple respect for the moral law within us would thus be the moral feeling ... [as the] incentive of the power of choice' (R 6: 27).

After briefly describing these three predispositions to good in human nature, Kant says:

All these predispositions in the human being are not only (negatively) good (they do not resist the moral law) but they are also predispositions to the good (they demand compliance with it). They are original, for they belong to the possibility of human nature. The human being can indeed use the first two inappropriately, but cannot eradicate either of the two. (R 6: 28)

Although we are of course conscious in all we do, there are some aspects of us as emotional, embodied beings whose origins must be thought of as belonging to our sensible nature; they concern natural, unreflective ways in which we love or care for ourselves and each other. Those predispositions we have by means of which we care for ourselves as animals include both things relating to our drive to survive, as individuals and as a species, as well as a basic social drive. These drives can be described as 'mechanical' in that, again, although we are of course conscious of everything we do and as we develop, transform, and integrate them into our lives by means of our capacity for abstract thought, these ways of being do not, as such, necessarily involve or require reason; they are unreflective, affective ways in which we (and other animals) are naturally oriented by means of natural and social drives. They are 'original' and 'necessary', as we saw Kant argues, as well as 'good' for us, as the embodied beings we are. They are original and necessary for the human being because they are part of what makes the human being—in its fullest sense—possible. And they are good both in the negative sense that they do not resist morality's demands and in the positive sense that they push us towards complying with morality's demands.

Insofar as we humans have good, healthy upbringings, therefore, we develop a basic comfortableness with both the physical and social world, a background assumed as fundamentally unproblematic as we learn to set and pursue ends of

our own (including together with others) responsibly in it. In addition, I believe it is most plausible to locate aspects of our own personal life as grounded at this animalistic level, that is, in the particular persons who are our loved ones: in our families, in our friends, and, as Kant himself says, for some, in one's (social) animals (such as one's horses and dogs). With these people and these highly social, affectionate animals with whom we identify, we share a grounding 'us': we make each other feel at home in the world.⁷

The second natural predisposition (to humanity) is the predisposition that makes us susceptible to how others perceive us, or to being affirmed by others as equally important or as 'worthy' of attention, and vice versa. This type of social predisposition requires reason in that it requires awareness of being seen or valued by others as well as awareness of the importance for others that we see and value them (reciprocally) as equals. As Kant emphasizes, if these comparisons are emotionally healthy they involve comparing oneself with another person or group as having equal worth, and even the competition it draws us towards is good for us—it propels us forward as social and cultural beings.

All of these first-level and second-level non-moral relations (those enabled by our predispositions to animality and humanity) constitute part of the sense of self each of us has; they are part of what makes us the particular human beings we are, although Kant believes that the second one requires a lower-level use of reason and hence will not be available to beings incapable of this.⁸ They also comprise the material that morality sometimes restricts, which brings us to the third predisposition, namely 'personality', which enables us to be moved to act merely because it is the right thing to do; it enables us to be motivated by pure reason when we act.

Notice that on this account, there is nothing wrong with acting as motivated by sensibility, such as out of affection, in most circumstances; in fact, doing so simply reveals that we are emotionally healthy human beings. Most of the time, what I do for my loved ones, for example, I do just because I love them—and there is nothing about morality that hinders me in this; in fact, morality affirms it. As I am letting those I love be emotionally oriented towards me and take part in my

⁷ One way to bring out these points is by invoking Simone de Beauvoir's analysis in *The Second Sex*, developed in part by exploring writings in the psychoanalytic tradition, of our experiences as pre-rational beings, including as newborn babies, as infants, and as small children (de Beauvoir 2011). I attend to some of the other similarities between Kant and de Beauvoir in Varden (2017, 2020).

⁸ It seems consistent to argue that those animals who pass the mirror test—such as elephants and dolphins—may display more complex behaviours and emotions than those that do not because they are aware of being seen by others. For example, maybe these animals are susceptible to emotions that this awareness enables us to have, such as jealousy, envy, and shame. I presume what they might not be able to do is to display either moral correction of these behaviours or moralized versions of such emotions. This would fit with how Kant says of the elephant in one of his lecture notes that it is 'an Analogon of Morality' (quoted in Kain, 2010: 218).

life in this way, I'm oriented in the same way towards them. It is therefore not just that the morality 'permits this', but it affirms it: personal love for another human being is to love them in this affectionate, affirming way, to be so directed towards them. And of course, this is what we most want from our loved ones, and what we get when things go well. Morality only comes in when I'm getting worried that I might be a little off in what I'm doing—when my conscience alerts me that perhaps something is not quite right.

Leaving controversies and various possible problems this argument may have to the side, what does it entail for how we interpret what Kant says about our indirect duties to animals in the *Doctrine of Virtue*; how does this explain why the troublesome instrumentalist, anthropocentric reading above is not quite right? The simple answer is of course not to deny that developing these natural predispositions is instrumentally useful to morality—after all, morality is supported by them since having developed the susceptibilities these natural predispositions in the right ways makes it much easier to be moral. The emotionally healthy, morally mature human being moves easily between unreflective (say, someone playing affectionately with her dog) and reflective (thinking about how wonderful this interaction is) ways of being; indeed, for such a person the suggestion that she is playing with her dog in order to improve her morality will immediately strike her as weird or foreign. Of course, she will affirm, upon reflection, that it is the case that such play is good for her (emotionally), but this is not *why* she is doing it; she's doing it because she loves, and loves playing with, her dog. And Kant is not denying this. Rather, Kant's main point is rather that duty—the *moral* ought—tracks freedom or the ability we have to be morally responsible in virtue of acting on our reason; when playing with her dog, the human being is the only one capable of moral responsibility for the interaction, including knowing that perhaps today, although she doesn't really feel like it, she ought to play with her dog (because, for example, doing so is important for the dog). The duties regarding animals are therefore self-referential (anthropocentric) in that they track what we must do in response to our own reason when interacting with animals.

Let me put this last point from two different directions, first from the point of view of affection: insofar as our natural dispositions are healthy, we will not want to treat animals badly, let alone cruelly. We just will not want to do this, since it goes against what we naturally are affectionate or kindly disposed towards (given the natural predispositions we have). When we do act in bad ways, however, that is the time that morality kicks in for us, and we feel an obligation to stop and think about what we are doing (moral feeling). The source of this obligation is our own reason. It is our reason that makes it possible for us to be aware that perhaps we can no longer simply trust our sensibilities and it is our susceptibility to be moved by our reason that makes it possible for us to act otherwise than our current inclinations direct. And, so, our direct moral duties are to ourselves, as morally responsible beings, namely as embodied sentient rational beings who can and

must (have an obligation to) act on and interact with the world in accordance with our moral, reflective standards, including insofar as these actions and interactions engage embodied beings which do not appear to have such capacities for moral responsibility.

Centrally, we do not experience respect in our interactions with animals. Respect, strictly speaking, is a moral, and so reflective emotion. It is an emotion internal to relations between reflectively self-conscious beings. One way to get at this may be to point to how social beings, such as cats and dogs, do not comfortably meet our direct gaze, or seek moments where we 'rest' in or understand each other by looking each other in the eyes. Humans, on the other hand, cannot only look each other in the eyes to affirm our affection and appreciation for one another, but can look each other in the eyes to affirm our respect for each other. And it is our capacity for reflective self-consciousness that enables us to do this last thing; I can (and do) seek another's eyes not only when I want to show my expectation of moral responsibility to that person, but also to seek or to affirm my respect from or for them (CPrR 5: 76). Still, that we do not experience the moral feeling of respect with regard to animals does not mean that we don't value them; it's just that the specific moral attitude we have towards human beings is absent in our relations to non-human animals (since they are not capable of reflective self-consciousness). And there's nothing wrong about that; there are other, important kinds of valuing than *moral* valuing in a good life.

Although it is true that doing torturous things to animals is also to damage ourselves (to 'uproot or weaken the natural predispositions in us') and we have a direct duty to ourselves not to do this, we also have a direct duty to ourselves to act in relation to the animate world in a morally responsible way. To illustrate by means of Kant's own examples, to kill animals quickly (if one kills animals), not to subject animals to agonizing experiments for the sake of speculation, to show gratitude to old horses and dogs for long service (as members of the household), and so forth are ways in which we relate morally responsibly to animals. Since, however, the directedness of the moral call is to ourselves (both the calls not to damage ourselves by how we act in nature and with regard to assume a moral perspective with regard to non-human nature), the duties with regard to non-human nature are indirect in nature. It's not only the conclusion that is right, but also the reasoning behind it: moral duties are always directed at moral agents, including when the duties in question are with regard to non-human nature or non-moral beings. And, again, although it seems incorrect to describe relations themselves with non-human beings by means of moral concepts, or concepts tracking rational beings, such as rights and respect, to act appropriately in our relationships with non-human animals often involves holding attitudes such as admiration, concern, care, and affectionate love.

If the above is correct, then we can also see why children and all of us, insofar as our capacities for reason are temporarily or permanently damaged, do have

rights, even though non-human animals do not have rights. Our care for other humans is fundamentally informed by all *three* considerations in our aim to treat the one cared for in line with all three at all times and with the aim that the person can restore or realize as much as possible of all three predispositions, hopefully all the way to full moral responsibility (again).⁹

Let me restate this last point by addressing a common worry in the literature on animals, namely that the only way to give *all* human beings proper moral considerations is by also granting the same consideration to at least higher cognitive, social non-human animals. For example, some argue that attributing rights only to humans is mistaken because any morally salient feature that only humans exhibit—such as practical reason—is not exhibited by all humans, and since the (allegedly) morally salient feature that all humans share—such as sentience (Singer)¹⁰ or being the subject of a life (Regan)¹¹—is also exhibited by many non-human animals. Hence, if it is having this feature that grounds moral consideration, then not only humans end up with moral consideration.

In addition to taking on these kinds of objections, to make my case, the position will also need to be able to respond properly to the opposite extreme type of position found in the literature, namely those who argue that it is impossible to justify any legal protection of animals beyond what is necessary to protect human health. This extreme is exemplified by many (especially right-wing) libertarians, who characteristically deny not only any notion of animal rights, but also *any* notion of special, legal *rights*—so-called care rights—for human beings incapable exercising rights. Consequently, not only do animals end up without rights or without any special legal protection beyond what is necessary to protect human beings' health, but so do human beings whose incapacitation is so severe as to render them unable to utilize or develop their capacities for practical reason to the extent needed to exercise their rights.

As one might suspect at this point, I am convinced by neither of these extreme types of accounts nor by the way in which the anti-speciesist intuitions are used to support the idea that animals have rights or moral standing equal with at least some humans. Something goes wrong in both lines of reasoning and the supplied intuitions show less than what they are taken to do here. But what is it that has gone wrong? To start, a problematic, underlying assumption informing any non-practical reason account is that if we grant animals the kind of social, conscious nature I have outlined in this first part of the paper, then we have *thereby* given good reason to think that they have moral rights. But this presumption is false. The account of the social nature we share with animals is not the basis we should use to analyse human beings' moral rights and duties to care. Rather, our social, conscious nature is concerned with certain unreflective, yet normative preconditions

for animal and human choice, as explained above. The social account of animals also in the case of human relations is not what gives human being moral rights, including rights to care. Instead, this social account is part of a fuller account of human being that captures, for example, the place of affect and loving relations of particular others—for human and non-human animals—and it is part of the explanation of why human being have direct, moral duties *to themselves* and indirect duties to non-human beings not to do these things. Hence, this account of our social being is a part of what a moral theory must accommodate in the right way; it is part of a full practical account of normativity, but it is not itself a moral account or an account of freedom—not for human beings and not for other animals.

This also applies to the case of saving pets over strangers, though I believe that it may be plausible to apply the idea of viewing one's relationship to animals as possibly involving existential, sometimes religious sentiments as relevant to a complete analysis here. To start, the account of animals' social nature outlined above can explain why some might feel psychologically compelled to save their pets first, namely because of the close loving relation that exists between them and the specific role the pet plays in these persons' life. In light of this, we might think that our moral analysis must make space for this: perhaps we would and should withhold our judgment here and let this be one of those issues that each person must decide for oneself, on the basis of what one's actions reveal one can do and can live with. But I don't find this quite convincing unless, on this analysis, the major reason we remain silent on this issue is because there is something tragic about the scenario that gives us the reason to remain silent, namely that a pet has such a stabilizing role to play in a particular person's life. After all, making the choice of saving one's pet includes having to deal with meeting (or thinking about) the stranger's relations, including in light of the fact that the devastating, existential effect of losing one's relation invokes a different category of loss and grief than losing one's pets.

It seems to me, however, that the better analysis may be along the abovementioned, existential (sometimes religious) lines. To get at this idea, the following analogy might be useful: even if one doesn't understand it first-personally, one does recognize and respect that some people will not engage in violence regardless of what happens to them or their loved ones; they just will not do it. On my analysis above, the moving ground (reason) here may be considered existential in nature; for these, this has become a question profoundly about how they need to go about life to find it meaningful and good. I believe one's relations to animals may be similar in the following sense: some people cannot bring themselves to place any kind of life above any other, and so they cannot imagine—in the sense of honestly, clearly feel it to be true about themselves—that what they will do in emergency situations of these kinds will always favour saving humans over non-humans. It's just not how they need to be in the world to be who they are and

⁹ For Kant's legal analysis of legal guardianship, see Varden (2012).

¹⁰ Singer (1975).

abandon this part of themselves. And maybe there's something emotionally healthy about not wanting to reflect upon, endlessly, various hypothetical scenarios of such extreme emergency situations and instead just be content with the fact that these deep, unreflective existential, emotional orientations are what will ultimately be revealed in what we actually do in such situations. Insofar as we are emotionally grounded in a good way, it may be wiser to trust that we will know what to do—what this is such that we can live with it—if we ever have to face such horrible situations.

Regardless of how we go on this issue, notice that because no citizen (as a private citizen) can be under a legal obligation to save strangers in emergency situations, let alone risk their lives to do so, we might want in any case to be silent about this as a matter of law (in the sense of what private persons may be legally required to do). Nevertheless, and for reasons that will become clearer below, public officials will still have to save humans first. The reason is simply that as a representative of the public authority (public official) one is entrusted to act on behalf of the citizens (and other residents on the territory), including by protecting and saving them when possible. And since the issue of how we analyse these suitably described emergency situations does not justify universal moral non-speciesism and animal rights, acting as entrusted in this way necessarily involves saving humans first.

Moreover, because these situations are so complicated and involve extremely difficult situations that public officials are under an obligation to act in—that's their job—we do not want to wait here to specify rules helping public officials in these situations, and we want training to prepare the officials for them and procedures (including possible sessions with expert psychologists) to help them live with what they have had to do afterwards.¹² And, of course, regardless, the individuals involved will have to live with the decisions they make in these emergency situations, and the price of getting it wrong—of living life with having made grave mistakes in these regards—is probably harder for good human beings than what any state punishment could possibly be. This might plausibly be one reason why private individuals don't get punished for what they do, whereas the only punishment for public officials failing (such as losing courage) typically is that they lose their job, meaning that they cannot be entrusted any longer to hold the position of being such a public official.

Also, notice that regardless of our conclusions regarding saving pets and animals, it plainly seems to be a mistake to treat our relations to non-animal being and incapacitated human beings alike. Any human being who needs others to take care of them—obviously all of us insofar as we are children, mentally disabled, mentally sick, or severely physically ill—finds themselves in situations of

inequality with their particular caregiver(s). When the person for whom we care is someone we love, we strive to provide loving, caring surroundings, that is conditions that are not only affectionate, intimate, playful conditions but objectively caring, safe, and respectful. Insofar as the care-receiver is capable of affectionate love and of some moral responsibility, she will do her best to do the same to the caregiver—be affectionately loving, caring, and respectful—but because of the dependency involved, the relation and the extent to which the people involved can do these things is not reciprocal, but asymmetrical. Ultimately, moreover, the caregiver's aim is always to provide conditions consistent with the person cared for regaining or developing her own free agency insofar as possible. The fact that a particular person is currently or permanently incapacitated does not mean that she is no longer the same kind of being as the rest of humanity; indeed, characterizing someone as impaired or incapacitated, for example, is already to say that he or she is of a particular kind, but that her capacities are not operating, realized, or realizable so as to enable full functioning, at least not right now.

Let me point out two important consequences of this last point: first, the tragedy of a terrible accident that significantly destroys one's mental or physical capacities and so brings someone down to an actual functioning-level similar to that of a less complex animal is not that it's tragic to be such a different animal, but it's tragic for a *human* being to suddenly find themselves with such reduced abilities to exercise their capacities. Refusing to recognize, acknowledge, or appreciate the tragedy for someone who finds themselves or their loved ones in such a situation is plainly extraordinarily insensitive (revealing significant moral immaturity and/or interpersonal clumsiness). The only worse mistake, on this Kantian analysis, is to think (or say) that a human being after the accident (or any other human being that is incapacitated temporarily or permanently in any way) has lesser moral worth than a non-incapacitated human being, that somehow the accident could take away from this person her or his *'dignity* (an absolute inner worth) by which [they exact]...*respect* for [them]self from all other rational beings in the world' (MM 6: 435).

Second, if it is the case that someone is not able to feel sympathy (feeling pain at another sentient being's suffering)—a person who is partially or absolutely emotionally flat in this regard—then there is nothing natural already there in support of what one's practical reason demands of oneself. This kind of social disability, the lack of at least part of one of the natural predispositions (to animality) entails neither that this person should not be treated with respect nor that this person cannot act in accordance with and as motivated by their practical reason. The standard also for such a socially disabled person is the moral standard, which is available to them due to their ability engage the world as a reflective, self-conscious being. It's simply that it's much harder for such a socially disabled person to do what is right, since they always have to use (only, in severe cases) their capacities for self-reflective reason to figure out how to act appropriately in

¹² I'm grateful for many discussions with Ekow N. Yankah on this point.

various situations; their affective and social emotional life is not of much or any (again, depending on how severe the disability is) assistance in this regard, and so they much more easily get it wrong and end up in trouble (is perceived as rude, insensitive, or very clumsy) in their social interactions. And correspondingly, of course, this is also why a parent of a child with such a social disability is responsible for teaching the child how to manage social interactions that are naturally difficult for them to master. It is also why everyone who does not struggle with such disabilities is morally required to take the time it takes, when necessary and asked, to explain the social-emotional dynamics that someone's social disability makes it very hard to gain access to first-personally.

Finally, given the analysis above, including how it maintains that we can have affectionate, loving relations with other animals, we might ask whether (ethically) we ought not to kill and eat animals at all, whether we may be stopped from killing and eating them as such, and whether killing and eating them should even be illegal. For example, we may ask with Christine Korsgaard: although non-human animals do not consider killing wrong, isn't it the case that we should, since we can uphold a higher, non-predatory standard?¹³ In light of what I've argued above, killing or not killing non-human animals or eating or not eating non-human meat as such is not immoral. In addition, my suggestion is that this is one of those questions that appear better understood as a deep existential question. It is a question the answer to which depends on one's basic, existential openness or sensibility towards the world as a whole and as a good place. As history and contemporary differences between people's related, existential sensibilities show us, for some, killing an animal is incompatible with feeling oneself as participating in a world that is fundamentally a good place, one that fills one with profound peace, awe, and wonder. For others, we are part of a world where animals kill and eat each other, and being an animal in this sense is not, as such, experienced as existentially troublesome. Given the position I have been defending here, neither kind of people or persons is more or less ethical than the other; they are simply profoundly different in their related existential (sometimes as explicated through religious doctrines) sensibilities. Rather, what all can agree on, as a matter of morality, is that animals should be treated well. That is, we must treat all animals well in their lived lives (as the beings they are), and insofar as possible, and if one kills them, this should be done as quickly and painlessly as possible; it should be less painful and scary to be killed by a human animal than by a non-human animal.

¹³ Correspondingly, and as we well known, Korsgaard argues (against Kant) that we ought not to kill nor eat animals (Korsgaard 2014). The main differences between my analysis here and that of Korsgaard concern not only these philosophical points, but also the way in which I use Kant's account of human nature in my analysis.

8.5 Torturing Animals

At this point, it may be useful to return to a question that I have only briefly mentioned above, namely why do we ever get any of this wrong? That is to say, if we have the threefold natural predisposition to good—to animality, to humanity, and to personality—why do we ever do anything wrong? If these predispositions to good really are good (pushing us towards morality and being affirmable by our reason) and original (constitutive of the human kind), how could or would we ever want to do anything wrong? Why, that is, does our pure reason (rational self-love) ever need to infringe or restrict the natural, social forms of self-love (enabled by the predispositions to animality and humanity)?

Although this is not the place to engage this large topic fully, in short, the reason is the fact of a 'human being's power of choice as a moral being' in relation to our various desires (R 6: 31). That is, as human beings, we can choose in relation to our desires and hence we may, and will inevitably, sometimes choose badly in relation to which inclinations (habitual desires) we develop. Kant calls the leaning we have towards being tempted to develop bad habits through our choices a propensity to evil, and describes this propensity as:

the subjective ground of the possibility of an inclination (habitual desire) . . . insofar as this possibility is contingent for humanity in general. This is distinguished from a predisposition in that a propensity can indeed by innate yet *may* be represented as not being such: it can rather be thought of (if it is good) as *acquired*, or (if evil) as *brought* by the human being *upon* himself. (R 6: 29)

Inclinations as such, therefore, are not the problem. The problem is our ability to choose and develop bad ones: because we can choose ends (we can step back from any inclinations and set and pursue ends of our own), we are necessarily tempted to choose to do what we ought not to do—to choose just because we can or because doing so gives us the most pleasure in the moment or that it will increase our sensation of pleasure. We are, that is to say, tempted to exercise our freedom in choosing ends that are not truly good for us and which are not affirmable upon reflection as reconcilable with respect for ourselves and one another (the moral law). Indeed, we are tempted to do whatever we want to do where this is viewed as choosing for choice's sake (the thrill involved in being able to choose whatever we like, or power) or those ends that give us the most intense pleasures and senses of ourselves (in the short or long term).

These temptations are always present for us as embodied (natural, social) beings, who can choose freely in the sense of setting and pursuing ends of our own in an open-ended kind of way. We can choose to act for or against the moral law since we decide which maxims to act on; we do not simply act as our practical

rational will directs (R 6: 31). Kant calls this fact about us as beings capable of making bad, including patterned bad, choices 'the propensity to evil in human nature' (R 6: 29). The propensity to evil concerns the fact that we can and do feel the pull of choosing otherwise than our practical rational will directs; we can choose in other than morally justifiable ways. Obviously, what we might choose, what is tempting, is still determined by what we can feel as pleasant, namely inclinations available to us as natural, social beings capable of setting ends of our own, but they are now chosen for their own sake—in attempts at maximizing them—rather than as and insofar as they are morally unproblematic or affirmable upon reflection.

Kant continues by proposing that the propensity to evil comes in three degrees, or grades:

First, it is the general weakness of the human heart in complying with the adopted maxims, or the *frailty* of human nature; *second*, the propensity to adulterate moral incentives with immoral ones (even when it is done with good intention, and under maxims of the good), i.e. *impurity*; *third*, the propensity to adopt evil maxims, i.e. the *depravity* of human nature, or of the human heart... [This] can also be called the *perversity*... of the human heart since it reverses the ethical order as regards the incentives of a *free* power of choice. (6: 30)

There are, in other words, three grades to such wrongdoing: first, there are those situations where we know what is right, but we don't do it (the 'frailty of human nature'). To use Kant's examples: we know we shouldn't destroy beautiful crystals or not respond to suffering (whether from human or non-human animals), but sometimes we don't act or respond appropriately nevertheless. Or to illustrate with regard to the first two natural predispositions (to animality and humanity), respectively: we know we should not, for example, eat or drink too much, but we might do it anyway, and I know I should fight any jealous feelings I have (since they're groundless), but instead I yield to them. Second, sometimes we act with an 'impure' heart, meaning that we do what is right (we don't destroy nature and we keep tending to suffering and pain), but we do so with immoral incentives, such as wanting to look good in the eyes of others rather than, ultimately, because it is the good and/or right thing to do.¹⁴ Acting in this way is worse than frailty because it involves a patterned instability in how we value; it is generally hard for us to be moved to act in appropriate ways, for the right reasons. Third, we can start acting on evil maxims in self-deceptive ways, that is, we start doing wrong in

¹⁴ This does not entail that we cannot, for example, act out of affectionate love but must always aim to act out of duty. Rather, when so acting is appropriate, then, as explained in earlier sections of this paper, the actions are good and so have value (and would be affirmed as such upon reflection), and those with an impulse 'adulterating' moral maxims nor do they problematically lack moral worth.

the name of the good. Hence, whatever gives us or will give us the strongest inclinations and senses of power is what we do, but we describe what we do by means of moral language, such as 'giving people what they deserve' or as doing heroic things when we dehumanize others. This is the worst kind of wrongdoing, and doing so is to be at war with one's own ability to act morally responsibly, or should be understood as attacking one's own personality or what Kant also calls realizing a 'depraved' heart or acting with a 'perverted' heart.

Let me explain this last point, about the depraved or perverted heart, from a somewhat different direction, namely in a way that brings out the importance of making the full analysis of destructive or violent treatment of inanimate or animate nature attentive to both the ways our natural predispositions are non-moral, yet normative in nature as well as the crucial role our parents and families and loved ones play with regard to developing and sustaining these in the natural, emotionally healthy, or good ways. Kant says of the vices associated with depraved hearts that 'the vices that are grafted upon this inclination [to gain worth in the opinion of others]... can be named vices of *culture*, and in their extreme degree of malignancy (where they are simply the idea of a maximum of evil that surpasses humanity), e.g. in *envy*, *ingratitude*, *joy in others' misfortunes*, etc., they are called *diabolical vices*'. (6: 27) Obviously Kant's point here cannot be that one has a depraved heart if one is a little envious, feels insufficient gratitude, or sometimes takes joy in somebody else's misfortunes—after all, Kant is neither after the weakness nor the impurity of the human heart. What he is after is the depravity or the perversity of the human heart, our worst sides.

My suggestion, rather, is that the depravity or perversity of the human heart occurs when these twisted ways in which we can relate to how others view us (envy, ingratitude, joy in others' misfortunes) fundamentally ground how we go about our lives and yet it is done in the name of the good. Those who develop depraved hearts will take real pleasure, in the sense of feeling really alive and empowered, only if others are made to suffer around them and they will feel unimportant or neglected if those around them are not oriented towards them at all times. Such people will be aggressive and destructive, and not until they realize that their descriptions of their actions are deeply self-deceptive—and so they are actually acting in destructive and aggressive ways—can they change. In addition, of course, some people turn this destructiveness directly upon themselves, either by self-mutilation or by seeking people who violently affirm their own sense of worthlessness.¹⁵ In all cases, the fundamental problem is that such people lack an emotionally healthy sense of self, the kind of fundamentally stable self that is

¹⁵ A lack of self can manifest itself non-violently in simply seeking to live through others, or violently, in various types of aggressive self-absorption – see Tom Hill's 'Servility and Self-Respect', in Hill (1991: 4–19). I have applied this type of analysis in my paper on the terrorist attacks in Norway in Varden (2014).

related to the second, comparative natural predispositions to good—to humanity; although because of the way in which the two predispositions (to animality and humanity) are connected, such self- and other destruction and aggression reflect that the sense of self enabled by the first predisposition (animality) is unstable or lacking too—and hence such (self-)aggression further undermines or destabilizes it.

Still, regardless of which kind of wrongdoing we are liable to, because the root of evil is our frail nature due to the coexistence of inclinations and the fact of free choices, and *not* our rational will, 'it must . . . be possible to *overcome* . . . evil' (6: 37). Because the root of evil is not our rational will, but a corruption of our ability to act in accordance with it—a corruption that we have brought upon ourselves through our capacity to choose ends of our own—we can always overcome our liability to do wrong and, instead, do the right thing and heal our troubled, self- and other-destructive selves; we are morally responsible for our bad actions and for working on these aspects of our characters. Moreover, if we pay attention to the role the people we love and care for enabling us to develop and sustain these first two natural predispositions to good, then it follows that these kinds of unhealthy or unstable selves are typically related to having been subjected to abuse, including damaging neglect. If one has been so subjected, whether or not one is able to develop a fundamentally healthy or stable self, how hard the route to healing is depends upon to what extent one has learned to protect oneself against this and yet remained open to the world and other, non-abusive people in the right kinds of way. On this position, one clear sign that one is doing very poorly is, I believe, if one experiences oneself as being thrilled, happy, or excited when one is doing bad things to others, let alone if one is starting to use moral language to describe these actions; such normative facts, on this analysis, indicate that things are heading in the 'perverted heart' direction. Instead of taking pleasure in the right kinds of things—things reason will affirm upon reflection—not only does one fail to seek good pleasures and let reason guide one when one is worried, but one uses one's ability to think about things so as to pursue and increase these kinds of pleasures, including by describing them in moralized ways.

Whether one does these bad things to people one loves or to strangers, then, what is lacking is a basic, emotionally healthy sense of self and what one is doing is not only undermining their healthy sense of self, but also attacking or further destroying oneself. Moreover, when one does this to nature—whether as a way of going about aspect(s) of one's life or in particular actions—one is violating one's own duties to oneself (by acting in self-damaging ways) and one is failing in one's indirect duties to non-human animate and inanimate nature, namely by treating them inconsistently with how one's morality requires one to live in relation to the natural world. And insofar as we share the first preconditions to good with other social animals, like we seem to do in degrees depending on how socially and cog-

it fundamentally disorients them and robs them of their trust in the world as a good world in which they confidently live and play. This is also why the problem with treating animals who share in our social natures is not only to inflict pain on them, but to torture them, to make them suffer.

Finally, it seems that the reasons someone may be tempted to do any of this are two: on the one hand, because not tending to the pain may be in one's self-interest, such as business interest, in which case he or she is not taking pleasure in it (but trying to avoid observing it or learning to numb the natural sympathy one has to others' suffering) *or* because she gets a heightened sense of self from doing it. Such a heightened sense of self is possible because humans have the second predisposition—to humanity—and hence can get a sense of satisfaction, a sense of power and of being alive, by terrifying another social being with a power of choice. And it seems plausible that it is because many such troubled souls so often do not feel satisfied with the terror beings without reflective self-consciousness can experience by such treatment that they so often also abuse human beings.